

**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Mon 4/8/2013 2:45:12 PM  
**Subject:** Goldman: RINs Shortage Worse than Previously Thought

Brent Erickson  
Executive Vice President  
Industrial and Environmental Section  
Subject: BIOFUELS UPDATE: \*\*\*Goldman: RINs Shortage Worse than Previously Thought Auto forwarded by a Rule

2013-04-08 10:26:18 EDT  
\*\*\*Goldman: RINs Shortage Worse than Previously Thought

Just three days after weighing in with a lengthy treatise on controversial Renewable Identification Numbers (RINs) and the likely impact of same on gasoline, Goldman Sachs has suggested that the deficit is much more severe than previously thought, with the capability of supporting higher RBOB and RINs quotes.

A report dated yesterday clearly makes the case for higher RBOB prices, higher gasoline cracks and higher RINs quotes, but lists no specific target prices. But the two-page bulletin notes that the Environmental Protection Agency's previous estimate of the 2012 RIN carryover was too ambitious. EPA just updated data through February (the month when obligated parties need to be in compliance with 2012 obligations) and the carryover is only 2.1 billion gallons. The prior estimate was 2.6 billion gallons, so the industry now knows that it is 500 million gallons short of what was previously indicated.

In effect, the bank observes that the 2014 shortage "likely just got bigger." The downward revision in RIN supplies should in turn uplift RIN values, and that should ultimately support RBOB futures as well as gasoline cracks. Goldman has previously indicated that higher costs for obligated parties (refiners and importers) were being passed along in downstream gasoline prices. Some traders disagree with the statement that the costs have filtered down to pipeline, terminal, and retail trade, but nearly all parties agree that the costs will ultimately get passed through.

The investment bank now believes that greater penetration of E85 -- believed to be one of several possible solutions to the refinery shortfall -- will not be a sufficient remedy for meeting the 2014 ethanol RIN shortfall.

A chart provided in the report puts the 2013 RIN deficit at 1.3 billion and estimates the 2014 shortfall at 1.9 billion with 2.5 billion mentioned for 2015.

Spot 2013 ethanol RINs were quoted at 75-76cts/gal on Friday, well short of the \$1.10/gal 2013 peak, but well above the 7cts/gal assessment when the year began.

--Tom Kloza, tkloza@opisnet.com

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**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Tue 4/2/2013 8:26:09 PM  
**Subject:** RIN attacks?  
[RIN prices and retail gasoline.pdf](#)

There be somewhere around 2.1-2.2 billion RINS currently available, but we won't know for sure until EPA posts the February RIN data. Take a [look at this chart](#) though by Geoff Cooper on RFA staff attached. It demonstrates that there is no correlation between RINs price and spiking gas prices.

**Brent Erickson**

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

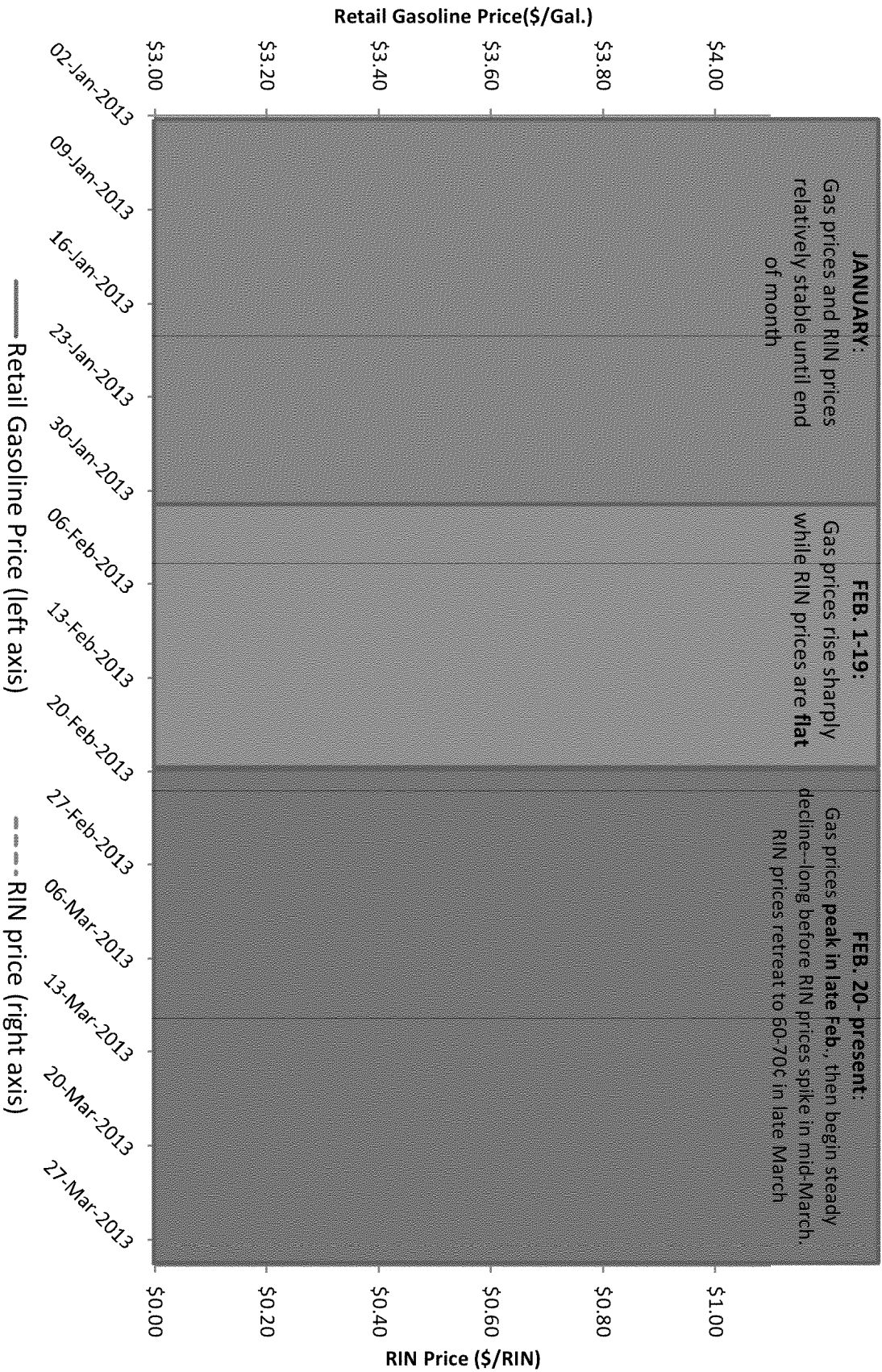
1201 Maryland Ave. S.W. , S. 900

Washington, D.C. 20024

(b) (6)

*There is no correlation between this spring's higher gasoline prices and the recent increase in ethanol RIN prices*

- RIN prices were flat when gas prices escalated in February
- Gas prices were declining when RIN prices peaked in mid-March



Sources: RIN prices from OPIS; Retail gasoline prices (all grades/formulations) from EIA



**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brooke Coleman  
**Sent:** Fri 3/29/2013 6:34:35 PM  
**Subject:** FW: BIOFUELS UPDATE: \*\*\*EPA Nominee McCarthy, Biofuel Groups Meeting April 4

Wasnt me. I did not respond to Rachel.

----- Original message -----

**Subject:**FW: BIOFUELS UPDATE: \*\*\*EPA Nominee McCarthy, Biofuel Groups Meeting April 4  
**From:**Christina Martin (b) (6)  
**To:**All Staff (b) (6)  
**Cc:**

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**From:** (b) (6)  
**Sent:** Friday, March 29, 2013 1:03:24 PM (UTC-05:00) Eastern Time (US & Canada)  
**To:** OPIS Ethanol Updates  
**Subject:** BIOFUELS UPDATE: \*\*\*EPA Nominee McCarthy, Biofuel Groups Meeting April 4

2013-03-29 01:03:10 EDT

\*\*\*EPA Nominee McCarthy, Biofuel Groups Meeting April 4

A handful of biofuel-related trade groups are scheduled to meet next week with Gina McCarthy, the White House's nominee to head the EPA, OPIS has confirmed.

While details have not yet been finalized, according to multiple sources familiar with the issue, the April 4 meeting at EPA headquarters will include representatives from the Renewable Fuels Association (RFA), Growth Energy, the Advanced BioFuels Association, the Biotechnology Industry Organization, the American Coalition for Ethanol, the Advanced Ethanol Council, the National Biodiesel Board and Brazilian Sugarcane Industry Association UNICA.

EPA did not return requests for comment by presstime.

The purpose of the meeting has not yet been provided, but some believe it could be a general discussion ahead of McCarthy's Senate Environment and Public Works Committee confirmation hearing expected soon, while others anticipate a discussion on the recent increases in renewable identification numbers (RIN) prices.

McCarthy, currently assistant administrator for EPA's Office of Air and Radiation, has been asked by two Republican senators to use the agency's "any and all existing regulatory authority and flexibility" to address rising RIN prices. Meanwhile, Acting EPA Administrator Bob Perciasepe was recently asked by Senate Energy and Natural Resources Committee Chairman Ron Wyden (D-Ore.) for data to explain the RINs pricing volatility.

In recent weeks, the petroleum industry has blamed the overall renewable fuels standard and specifically RINs for the run-up in gasoline prices. RIN prices for 2013 ethanol quickly escalated the past few weeks above \$1. However, prices appear to be down from recent highs, with OPIS pegging the 2013 ethanol RIN Thursday evening at 69.7 cts.

In response to oil industry claims that higher RIN prices are translating into a 10 cts/gal increase in the cost of making gasoline, RFA issued a study earlier this week concluding higher RIN prices are contributing no more than four-tenths of one cent to retail prices.

-Rachel Gantz, (b) (6)

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**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**Cc:** Ron Lamberty (b) (6)  
**From:** Brian Jennings  
**Sent:** Wed 3/27/2013 11:49:46 PM  
**Subject:** Mtg with Gina next week

Paul, thanks for the heads up on the mtg. Ron Lamberty, ACE Sr Vice President, and our RIN guru, will attend (don't tell anyone but I will be in Mexico on vacation w my family then).

Sent from my Verizon Wireless 4GLTE smartphone

**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]; Weihrauch, John[Weihrauch.John@epa.gov]; Fitzgerald, Lindsay[Fitzgerald.Lindsay@epa.gov]; Bunker, Byron[bunker.byron@epa.gov]; Manners, Mary[manners.mary@epa.gov]  
**From:** Larry Schafer  
**Sent:** Fri 3/22/2013 6:00:25 PM  
**Subject:** Pretty good synopsis ---- E&E on hearing

## **E&E Daily: Small biodiesel producers still reeling as EPA sorts out fraud**

Amanda Peterka, E&E reporter

Published: Wednesday, March 20, 2013

Small biodiesel companies continue to suffer from the lingering effects of three fraud cases in the fuel credit market despite U.S. EPA's efforts to clean up the mess.

Refiners are still hesitant to buy fuel credits from smaller producers, even from those that have had their production numbers audited and their credits certified. The lack of confidence in the market has forced independent biodiesel companies to sell their credits for discounts of up to 60 percent, market participants testified yesterday at an EPA hearing.

"Throughout the past 18 months I have done nothing but continue with the best business practices for my industry to no avail," said Jennifer Case, CEO of New Leaf Biofuel LLC, a 5-million-gallon biodiesel company in San Diego. "The market continues to discount my [credits] because of the fraud that was committed by a bad actor and because I am a small and mostly unknown company."

The issue of fraud has dogged small biodiesel producers since 2011, when EPA accused a company, Clean Green Fuel LLC, of producing millions of fake renewable identification numbers, the 38-digit figures attached to gallons of biodiesel. The credits are used by refiners to meet their yearly obligations under the renewable fuel standard.

Though the head of that company, Rodney Hailey of Maryland, has been sentenced to more than 12 years in prison and enforcement actions have been taken against two other companies found to be faking RINs (pronounced "rins"), the market continues to be rocky for small producers. Oil companies have spent millions of dollars on due diligence and prefer to buy their credits from larger, more name-brand producers.

Case said that her company has been examined at least five times in the past year by third-party auditors but that her credits are currently trading 10 to 12 percent lower than those from larger

companies.

The fraud "has had a particularly devastating effect on the small biodiesel producers like New Leaf," Case said.

EPA has proposed creating a quality assurance program in which the agency would authorize third parties to conduct audits of producers. Refiners that purchase certified RINs would be able to claim an affirmative defense should those credits be found to be fraudulent.

The agency says it is eager to begin the program and provide certainty to the market (*Greenwire*, Feb. 11). It has proposed two types of quality assurance programs: Under the first, third parties would conduct audits continually and would be responsible for replacing invalid credits. Under the second, audits would be done quarterly, and refiners would be responsible for replacing RINs to meet their biodiesel obligations.

The proposal has been met with positive reactions overall, but producers, refiners and auditors at the hearing yesterday at EPA headquarters raised several issues that they hope to see fixed in the agency's final regulation.

Case said she worried that the smallest producers would be stuck with the largest burden because they would be forced to pay for the first, more expensive type of quality assurance program in order to engender enough confidence to be able to freely trade their credits.

"EPA needs to understand ... that the cost of compliance for small producers will be greater than all other biofuel producers and that although EPA calls the program voluntary, for small producers it is not voluntary," Case said. "It seems odd, unfair and perhaps punitive that the smallest of all the fuel companies are saddled with the highest required compliance costs."

She recommended that EPA require all refiners to annually purchase 15 percent of their credits under the more expensive option to spread compliance costs more evenly throughout the market. Case and several other witnesses also stressed the need for auditors to be truly independent from the market.

### **'Unnecessary cost, burden'**

A representative from the ethanol industry, on the other hand, called the proposal too broad in scope because it would apply to all renewable fuels that have associated RINs -- not just biodiesel. The ethanol industry has not experienced fraud as the biodiesel industry has, largely because ethanol credits are assigned at the point of blending with gasoline and are never handled by producers themselves.

Over the past several years, 34.4 billion ethanol RINs have been generated, "and to our

knowledge not a single one has been alleged or found to be fraudulent by EPA," said Geoff Cooper, an economist with the Renewable Fuels Association.

The quality assurance program could add "unnecessary cost and administrative burden to our members' operations," Cooper added. Though the program is voluntary in nature, Cooper said it seemed "inevitable" that obligated parties would require all credits to go through the program. Refiners are already signaling that they will only purchase certified credits.

"It's a little ironic that the program that was intended to improve liquidity in the relatively smaller biodiesel RIN pool may actually end up reducing liquidity in the [ethanol] RIN pool for renewable fuel producers who may not initially choose to participate," Cooper said.

The refining industry, which drafted the quality assurance program last year and then met several times with EPA officials to hash out details, yesterday said it also remained concerned with the expense and scope of the audits required under the program that the agency ultimately proposed.

"We are concerned that proposal goes too far with burdensome due diligence requirements," said Tim Hogan, director of motor fuels for American Fuel & Petrochemical Manufacturers.

Both Hogan and Patrick Kelly, a policy adviser at the American Petroleum Institute, also pushed EPA to relink credits and physical gallons of biodiesel, similar to the ethanol market. Producers, Kelly said, should be allowed to separate credits from gallons only if they are also refiners that have to comply with the renewable fuel standard.

"Eliminating this provision would have prevented the fraud experience thus far and would go a long way of preventing future instances of RIN fraud," Kelly said.

EPA has opened a public comment period on the quality assurance program and says it hopes to issue a final rule as soon as possible. The agency will not take enforcement actions this year against parties that use invalid 2013 credits that were verified before the release of the final rule. Any changes to the program will not go into effect until next year.

**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Larry Schafer  
**Sent:** Thur 3/14/2013 3:14:45 PM  
**Subject:** A few questions ...

Paul,

Hope you are well ...

It's been an interesting week in the renewable fuels business ...

I have received the following questions and plan to answer them as follows. Can you let me know if my answers are adequate?

If calling would be easier .. then please call me at (b) (6)

Thanks

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Comment/Question: -THE RIN WEAKNESS WAS SAID TO BE TIED TO TWO MAIN FACTORS. AN ENERGY ANALYTICAL GROUP—SIMILAR TO INFORMA IN THE AG SPACE— **SUGGESTED THAT THE EPA COULD ALTER THE MANDATES AS EARLY AS THIS SUMMER. THE REPORT CITED THE UNSOLVABLE MANDATES FOR 2014 AND BEYOND AND SUGGESTED THERE WERE JUST NOT ENOUGH RINS TO COVER THE SHORTFALL.** WASHINGTON CONTACTS THOUGH INDICATED THAT WAS EXTREMELY UNLIKELY AND IF A CHANGE WERE TO HAPPEN IT WOULD BE IN LATE 2013 OR EARLY 2014 AND THEY HIGHLY DOUBT IT WILL OCCUR THEN

Any (real) chance of seeing reductions to any of the 2013 mandates

Larry's Comments: EPA does not have the authority to alter the mandates once they have been finalized unless they follow the waiver authority it has been given (and have previously executed twice already). Although we have an open rule to discuss the 2013 volume requirements for conventional, advanced and cellulosic. The conventional volume of 13.8 billion gallons is set by statute and EPA does not generally have the authority to change the number unless they go through the waiver process.

Comment/Question: PALM OIL STOCKS IN THE WORLD ARE EXPECTED TO REMAIN HEAVY AND WITH THAT THERE IS MORE EXPECTATION THAT PALM OIL IMPORTS TO THE U.S. WILL ACCELERATE AS SOYOIL TIGHTENS IN THE U.S. FOR MAY AND FORWARD. **THERE WAS EVEN TALK THAT ANOTHER TWO OR THREE PALM OIL MILLS HAD REQUESTED EPA APPROVAL TO BE IMPORTED TO THE U.S. AS PALM METHYL ESTER AND RECEIVE A RIN. THAT APPROVAL COULD COME AS SOON AS MIDJUNE.**

Could this prompt the EPA to relax/revisit its GHG calcs / feedstock requirements with an eye to 'approving Argentine SME or Malaysian/Indonesian PME for RIN Generation (either D4 and/or D6) or is this a dead end? Understand CARBIO, the argentine bio association is preparing responses to EPA's questions on the Arg Scheme, and thought they could get an answer by end of April.

Can plants be 'grandfathered' retroactively (as the second paragraph would seem to imply)? Or could this 'approval' refer to feedstock validation (and/or a resurrection of the PFAD discussion)?

Larry's Comments: EPA is currently reviewing the palm pathway. I do not know when it will be approved. Currently a grandfathered palm facility can generate a D6 RIN. I have been told that perhaps 1 or 2 palm facilities may be grandfathered, but I have no way of verifying that information.

On the question of grandfathered facilities – if a plant was in operation and producing biodiesel prior to Dec. 19, 2007 (or met the commenced construction requirements) then generally the facility could be registered by EPA as grandfathered so long as the registration materials was submitted by July 1, 2013.

I don't think EPA will relax GHG requirements or feedstock requirements – but certainly not without going through a notice and comment period ...



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Larry Schafer

National Biodiesel Board

O: 202.737.8801

M: (b) (6)

L.Schafer (b) (6)

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[www.americasadvancedbiofuel.com](http://www.americasadvancedbiofuel.com)

1331 Pennsylvania Ave. NW

Suite 505

Washington DC 20004

To: Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
From: Michael.McAdams@hklaw.com  
Sent: Tue 10/1/2013 5:29:32 PM  
Subject: FW: question

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**To:** courtney.rowe (b) (6) [courtney.rowe (b) (6)]; Campbell, Todd - OSEC[Todd.Campbell (b) (6); Bittleman, Sarah[Bittleman.Sarah@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Fri 10/18/2013 4:51:50 PM  
**Subject:** DuPont Drops Advanced Biofuels Association Membership

From: (b) (6) (b) (6)  
Sent: Friday, October 18, 2013 12:26:15 PM (UTC-05:00) Eastern Time (US & Canada)  
To: OPIS Ethanol Updates  
Subject: BIOFUELS UPDATE: \*\*\*DuPont Drops Advanced Biofuels Association Membership

2013-10-18 12:26:08 EDT

\*\*\*DuPont Drops Advanced Biofuels Association Membership

DuPont, which operates biobutanol technology company Butamax through a joint venture, is no longer a member of the Advanced Biofuels Association (ABFA), OPIS has confirmed.

"DuPont has decided to leave the Advanced Biofuels Association," DuPont Industrial Biosciences spokeswoman Wendy Rosen explained to OPIS in a statement this morning. "Our decision to leave ABFA is effective immediately," she added, noting DuPont informed ABFA of its departure on Thursday.

"ABFA has done a good job of representing the drop-in fuel and other emerging companies in the alternative fuel space," Rosen explained in the statement. "DuPont, however has interests / investments across the wide spectrum of renewable fuels and the supporting value chain, from seeds and crop protection chemicals, to enzymes and other processing aids for ethanol and animal nutrition; from commercializing cellulosic ethanol to developing next generation biofuels with improved performance, such as biobutanol. We therefore focus our efforts / industry engagement to reflect the broader, common priorities across all renewable fuels -- most urgently, that the Renewable Fuel Standard (RFS) is working as intended to spur private sector investment in renewable fuels, and no legislative modifications are needed to the RFS," she added.

"We remain members of Fuels America and other trades," Rosen added, citing memberships in both the Biotechnology Industry Organization and the Renewable Fuels Association.

DuPont had been members of ABFA since 2011.

Butamax, a joint venture between DuPont and BP, is focused on building on retrofitting plants to produce biobutanol. Butamax currently operates a demonstration-scale isobutanol facility in Hull, U.K.

"The Advanced Biofuels Association has appreciated DuPont's past membership and wishes them the best in the future," said a statement from President Michael McAdams. The broader industry trend of drop-in and cellulosic biofuel technology moving from the laboratory to reality endures. So, ABFA's work will continue with our nearly 50 members who are designing, purchasing and building the capability necessary to supply America with clean, advanced biofuels," the statement noted.

Meanwhile, DuPont's logo is no longer featured on ABFA's website under its membership section.

-Rachel Gantz, (b) (6)

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**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Jonathan Birdsong  
**Sent:** Tue 10/22/2013 6:52:30 PM  
**Subject:** RE: Meeting request re: SRF  
Rockefeller-Manchin letter to EPA re Entsorga.pdf

Hi Paul –

It's been a couple of months since we last talked about the facility in West Virginia which wants to use municipal solid waste as a supplemental fuel to a cement manufacturing facility.

We have familiarized ourselves with the existing regulations, and our data from Entsorga's existing commercial facilities clearly indicate that they meet all of EPA's legitimacy criteria.

Sorry to pester you with this, but this has been sitting at the Agency for over 2 years. The two West Virginia Senator's have weighed in (letter attached), and we still don't know where things stand in the process. We've answered several questions from EPA staff both in DC and North Carolina and re-crafted our initial submission specifically to the recommendations outlined by EPA staff. This project has the support of the state, county, local elected officials, the cement company which would use the supplemental fuel and the waste facility which would supply the fuel.

How else would you recommend we proceed?

Thanks,

Jonathan Birdsong

**From:** Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]  
**Sent:** Monday, July 22, 2013 7:21 AM  
**To:** Jonathan Birdsong

**Subject:** RE: Meeting request re: SRF

Hello Jonathan,

Thank you for your email. Unfortunately, I'm booked Wednesday at an offsite meeting. Maybe we can set up a call for sometime in August?

With regard to the use of waste, I'm not sure I can be of any assistance with RCRA office. However, as it pertains to producing fuel from municipal waste, It'd be best to familiarize them with the RFS regs and the criteria that apply to producing fuel within the existing pathway/s in the regulations. We can then discuss if / how what they are doing meets all the requirements and then how to proceed.

Sorry to be so brief but things are running at a rapid pace given we are still in the process of trying to finalize the 2013 volume standards and propose the 2014 standards as well.

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: [argyropoulos.paul@epa.gov](mailto:argyropoulos.paul@epa.gov)

Web: [www.epa.gov](http://www.epa.gov)

**From:** Jonathan Birdsong

(b) (6)

**Sent:** Friday, July 19, 2013 5:21 PM  
**To:** Argyropoulos, Paul  
**Subject:** Re: Meeting request re: SRF

Paul,

Entsorga will be in Washington on Wednesday, July 24.

If you have any time early that afternoon, it would be great to be able to sit down and talk about their proposal. Thank you very much!

Jonathan Birdsong

BlueWater Strategies

400 North Capitol St., NW - Suite 475

Washington, DC 20001

(b) (6)

A large black rectangular redaction box covering several lines of text.

On Jul 18, 2013, at 3:34 PM, "Jonathan Birdsong" (b) (6) wrote:

Paul,

I first have to thank you for your extraordinary efforts on the final rule re: *Arundo donax*. I work for Chemtex and needless to say, without you and your staff's leadership, this couldn't have happened.

Onto another issue in which I hope you can help me. I have a question re: solid refuse waste (SRF) and Sarah Bittleman recommended that I contact you.

One of Chemtex's companies is Entsorga. They specialize in converting SRF into non-toxic

supplemental fuel. They have commercial facilities operating across the world and are interested in providing supplemental fuel for Essroc - a cement manufacturing plant in Martinsburg, WV. Entsorga has contracts with Essroc, the local waste facility and recently received approval of the facility from the Administrative Judge for West Virginia's Public Services Commission. In addition, the use of this supplemental fuel will not only significantly reduce the operating budget for Essroc and create jobs, but provide several environmental benefits re: reduced waste and lower emissions.

Entsorga petitioned the EPA's Office of Resource Conservation and Recovery more than 2 years ago asking for the Agency's evaluation of their data re: legitimacy criteria in hope that after careful review, they would receive a comfort letter from the Agency. Unfortunately, despite other similar projects getting approved that were submitted after Entsorga's (e.g. ReCommunity: August 2012), Entsorga has yet to receive a comfort letter from the EPA. We have worked very cooperatively with the Agency, have had several meetings with EPA staff, re-worked our proposal to the specifications that EPA staff suggested, and received correspondence from EPA staff that Entsorga's proposal was technically sound and complete.

I was hoping that I could set up a meeting with you and an Entsorga executive next week to see if there is anything else we can do/should be doing to move this along. Do you have any time Monday-Wednesday of next week: July 22, 23 or 24th?

Thank you very much for your time and consideration. I look forward to hearing from you shortly.

Sincerely,

Jonathan Birdsong



United States Senate  
WASHINGTON, DC 20510

September 27, 2013

Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Avenue, NW  
Washington, DC 20460

Dear Administrator McCarthy:

In June 2011, a company which is interested in investing in our state wrote the U.S. Environmental Protection Agency (EPA) requesting the agency's opinion on whether they could use non-hazardous Solid Refuse Fuel (SRF) as a supplemental fuel for a new cement plant. Since that time, at least one other company with a similar product has received a response back from the EPA allowing their project to proceed, despite the fact that the other company's approval took less than a year. The EPA's delay on the proposed facility in our state is having significant economic impacts on the company and delaying its proposed opening in West Virginia. We request your immediate assistance.

Enstorga West Virginia LLC (Entsorga) is proposing to supply a cement manufacturing facility in Martinsburg, WV with supplemental fuel using non-hazardous SRF derived from Municipal Solid Waste (MSW). Cement plants typically use coal and petroleum coke in their kiln system and the SRF Entsorga is proposing could be used to supplement existing fuels. Their product meets all the of EPA's "Legitimacy Criteria" as outlined in 40 CFR 241(3)(d).

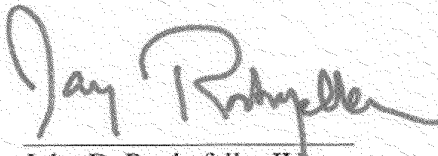
On June 23, 2011, Entsorga formally requested EPA to determine whether their non-hazardous SRF could be manufactured and sold as an alternate fuel. In their letter, they provided detailed answers to all the questions related to the EPA's "Legitimacy Criteria". In addition, they provided written answers to questions asked by EPA staff on July 29, 2011. Since that time, the company did not receive any correspondence from the EPA for over a year. The company followed up with the EPA with an in-person meeting on October 23, 2012 where it was suggested that the company provide additional material. On December 12, 2012, the company provided all of the additional information suggested by EPA staff. They have had several subsequent calls with the agency and EPA staff has assured Entsorga that their proposal is technically sound and complete.

This project also enjoys widespread state support as on March 11, 2013; an Administrative Law Judge for the West Virginia Public Services Commission ruled that the plant meets all their criteria and should be permitted. In addition, if this project is completed, it will compliment Essroc cement by helping them reduce their existing emissions and operational costs.

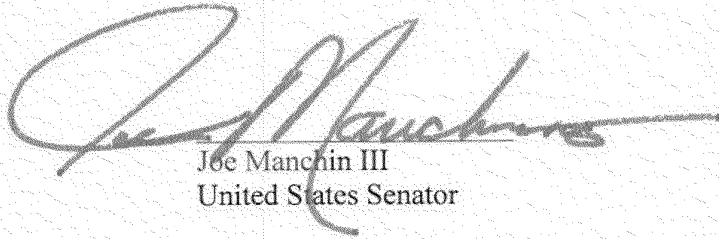
Entsorga has worked cooperatively with the EPA for over two years, and has been working with our state to ensure complete compliance. Since their initial submittal, other companies have been approved by the EPA, despite the fact that the information they provided was not as detailed as that of Entsorga's. This is an important project to our state and will create many new jobs. Therefore, we ask that you provide us a clear timeline of EPA's consideration of Entsorga's permits and provide the company the certainty they deserve. Entsorga has been a good partner to the EPA, addressed all of the agency's questions and they deserve a quick response.

Thank you for your time and consideration.

Sincerely,



John D. Rockefeller IV  
United States Senator



Joe Manchin III  
United States Senator

**To:** Jonathan Birdsong (b) (6)  
**From:** Argyropoulos, Paul  
**Sent:** Tue 10/22/2013 7:57:07 PM  
**Subject:** RE: Meeting request re: SRF

Hello Jonathan.

As we previously discussed, my office doesn't regulate solid fuel use in stationary sources. My office primarily regulates the transportation sector which includes liquid fuels. I'm not sure which office your letter was assigned to and who in the agency any communications have been held but this would appear to fall under our Office of Air Quality Planning and Standards jurisdiction. You can try to contact the Office Directors office and put in an official inquiry there first.

Second, given that a congressional letter was submitted, you can expect a response will be forthcoming. I have no idea how quickly, but one is required. My suggestion would be to have your congressional representative (of staffer from the representative) call our Office of Congressional and Intergovernmental Affairs office and have them reference the recent letter, the issue, and the interests and request some reply / action sooner rather than later. They will then engage the appropriate offices and work to satisfy the request.

Hope this helps.

Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: [argyropoulos.paul@epa.gov](mailto:argyropoulos.paul@epa.gov)

Web: [www.epa.gov](http://www.epa.gov)

**From:** Jonathan Birdsong (b) (6)  
**Sent:** Tuesday, October 22, 2013 2:53 PM  
**To:** Argyropoulos, Paul  
**Subject:** RE: Meeting request re: SRF

Hi Paul –

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How else would you recommend we proceed?

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Jonathan Birdsong

**From:** Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]  
**Sent:** Monday, July 22, 2013 7:21 AM  
**To:** Jonathan Birdsong  
**Subject:** RE: Meeting request re: SRF

Hello Jonathan,

Thank you for your email. Unfortunately, I'm booked Wednesday at an offsite meeting. Maybe we can set up a call for sometime in August?

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Sorry to be so brief but things are running at a rapid pace given we are still in the process of trying to finalize the 2013 volume standards and propose the 2014 standards as well.

Best Regards, Paul

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: [argyropoulos.paul@epa.gov](mailto:argyropoulos.paul@epa.gov)

Web: [www.epa.gov](http://www.epa.gov)

**From:** Jonathan Birdsong (b) (6)  
**Sent:** Friday, July 19, 2013 5:21 PM  
**To:** Argyropoulos, Paul  
**Subject:** Re: Meeting request re: SRF

Paul,

Entsorga will be in Washington on Wednesday, July 24.

If you have any time early that afternoon, it would be great to be able to sit down and talk about their proposal. Thank you very much!

Jonathan Birdsong

BlueWater Strategies

400 North Capitol St., NW - Suite 475

Washington, DC 20001

(b) (6)

On Jul 18, 2013, at 3:34 PM, "Jonathan Birdsong" (b) (6) wrote:

Paul,

I first have to thank you for your extraordinary efforts on the final rule re: *Arundo donax*. I work for Chemtex and needless to say, without you and your staff's leadership, this couldn't have happened.

Onto another issue in which I hope you can help me. I have a question re: solid refuse waste (SRF) and Sarah Bittleman recommended that I contact you.

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Thank you very much for your time and consideration. I look forward to hearing from you shortly.

Sincerely,

Jonathan Birdsong

**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Jonathan Birdsong  
**Sent:** Tue 10/22/2013 8:09:53 PM  
**Subject:** RE: Meeting request re: SRF

Thanks and sorry for the confusion.

**From:** Argyropoulos, Paul [mailto:Argyropoulos.Paul@epa.gov]  
**Sent:** Tuesday, October 22, 2013 3:57 PM  
**To:** Jonathan Birdsong  
**Subject:** RE: Meeting request re: SRF

Hello Jonathan.

As we previously discussed, my office doesn't regulate solid fuel use in stationary sources. My office primarily regulates the transportation sector which includes liquid fuels. I'm not sure which office your letter was assigned to and who in the agency any communications have been held but this would appear to fall under our Office of Air Quality Planning and Standards jurisdiction. You can try to contact the Office Directors office and put in an official inquiry there first.

Second, given that a congressional letter was submitted, you can expect a response will be forthcoming. I have no idea how quickly, but one is required. My suggestion would be to have your congressional representative (of staffer from the representative) call our Office of Congressional and Intergovernmental Affairs office and have them reference the recent letter, the issue, and the interests and request some reply / action sooner rather than later. They will then engage the appropriate offices and work to satisfy the request.

Hope this helps.

Paul

Paul Argyropoulos

Senior Policy Advisor



US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: [argyropoulos.paul@epa.gov](mailto:argyropoulos.paul@epa.gov)

Web: [www.epa.gov](http://www.epa.gov)

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**Sent:** Tuesday, October 22, 2013 2:53 PM  
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Thank you very much for your time and consideration. I look forward to hearing from you shortly.

Sincerely,

Jonathan Birdsong

**To:** Bittleman, Sarah[Bittleman.Sarah@epa.gov]; Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Fri 10/25/2013 11:37:02 AM  
**Subject:** BIO statement on API call  
[API Response\\_102413.docx](#)

FYI see attached.

**Brent Erickson**

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

1201 Maryland Ave. S.W. , S. 900

Washington, D.C. 20024

(b) (6)



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1201 Maryland Avenue, SW • Ste. 900 • Washington, D.C. • 20024 • 202-962-9200  
Web: [www.bio.org](http://www.bio.org) Blog: [www.biotech-now.org](http://www.biotech-now.org) Twitter: [@IAmBiotech](https://twitter.com/IAmBiotech)

---

**For Immediate Release**

**Contact:** Paul Winters  
202-962-9237

**API Seeks to Maintain a Near-Monopoly on the Transportation Fuel Market, While Increasing Air Pollution, BIO Says**

Washington, D.C. (Oct. 24, 2013) –The Biotechnology Industry Organization (BIO) today condemned comments by American Petroleum Institute (API) on a leaked draft proposal for the 2014 Renewable Fuel Standard rules, made during a phone briefing with reporters this morning. Brent Erickson, executive vice president of BIO's Industrial & Environmental Section, released the following statement:

"A draft proposal for the 2014 RFS rules, unlawfully circulated to the media in the past weeks, has already had a chilling effect on the advanced biofuel industry, by undermining the confidence investors have in the federal RFS program. Apparently, that result is not good enough for some members of API. They would like to dictate the size of the transportation fuel market for renewables and safeguard the oil industry's monopoly. API is under the mistaken assumption that the RFS is based on gasoline supply and not the need for refiners to blend more biofuels. API may want to read the statute more closely.

"The RFS was designed to open the transportation fuel market and ensure that U.S. consumers would be able to use cleaner, renewable fuels. The oil industry has used every means available to frustrate that goal, even launching annual lawsuits on the regulations. The Court told API last year that the only obstacle to greater production and use of advanced biofuels is the closed nature of the fuel market – and that the RFS will solve this.

"The US Court of Appeals for the District of Columbia in January 2013 issued a two-part decision on the RFS in response to challenges by API and AFPM. They upheld EPA's authority to hold the advanced biofuel standard steady, even when reducing the cellulosic standard, saying:

'Moreover, in sharp distinction with cellulosic biofuel, there appears to be no great obstacle to the *production* of advanced biofuel generally; to the extent that estimates in the record are relatively low, that seems to be based on want of a market, which of course continued pressure will tend to solve.'

- more -

"That statement seems to provide a basis to interpret the 'inadequate domestic supply' waiver clause as we have always done.

"In addition, if EPA reduces the amount of renewable fuels in the nation's fuel supply, it will also increase pollution in the form of carbon dioxide emissions and toxic aromatics. It seems odd that EPA would go along with API's wishes for environmental backsliding and move forward with a proposed rule consistent with the leaked draft."

### **About BIO**

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### **Upcoming BIO Events**

#### BIO IPCC Conference

November 6-8, 2013  
Washington, DC

#### BIO Convention in China

November 11-13, 2013  
Beijing, China

#### Pacific Rim Summit on Industrial Biotechnology & Bioenergy

December 8-11, 2013  
San Diego, CA

#### BIO CEO & Investor Conference

February 10 – 11, 2014  
New York, NY

#### BIO Asia International Conference

April 8-9, 2014  
Tokyo, Japan

#### World Congress on Industrial Biotechnology

May 12-15, 2014  
Philadelphia, PA

#### BIO International Convention

June 23-26, 2014  
San Diego, CA

###



**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Larry Schafer  
**Sent:** Fri 11/1/2013 4:23:54 PM  
**Subject:** FYI ... FW: Save the Date: Invitation to present at NBB Board of Directors Meeting on Tuesday, November 19

Thanks Paul ...

-----  
Larry Schafer

National Biodiesel Board

(b) (6)

A large black rectangular redaction box covers the majority of the text in this section, starting below the National Biodiesel Board line and ending above the Biodiesel – America's Advanced Biofuel! line.

-----  
**Biodiesel – America's Advanced Biofuel!**

[www.americasadvancedbiofuel.com](http://www.americasadvancedbiofuel.com)

1331 Pennsylvania Ave. NW

Suite 505

Washington DC 20004

**From:** Stewart, Gwen [mailto:Stewart.Gwen@epa.gov]  
**Sent:** Friday, November 01, 2013 9:52 AM  
**To:** Ischafer, (b) (6)  
**Subject:** FW: Save the Date: Invitation to present at NBB Board of Directors Meeting on Tuesday, November 19

Good Morning:

I am in receipt of your invitation to Christopher Grundler for the NBB Board of Directors Meeting on Tuesday, November 19, 2013 at 8:30 AM

At the Washington Marriott at Metro Center (12<sup>th</sup> & H Streets NW).

Chris would like to accept your invitation to present at the NBB Board Meeting.

Please forward to me any pertinent information , and also let me know if I maybe of further assistance.

Thank you

**From:** Larry Schafer (b) (6)  
**Sent:** Wednesday, October 30, 2013 4:20 PM  
**To:** Grundler, Christopher; Argyropoulos, Paul; Simon, Karl  
**Cc:** Anne Steckel  
**Subject:** Save the Date: Invitation to present at NBB Board of Directors Meeting on Tuesday, November 19

Chris,

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Joe Jobe, Anne Steckel and I invite you to join us to present and discuss regulatory issues

related to biodiesel and EPA related issues.

Location: Washington Marriott at Metro Center (12<sup>th</sup> and H Street NW)

Date: Thursday, November 19, 2013

Time: 8:30 am

Generally, we would appreciate an overview of where things are at on the RFS, but clearly we have a great deal to discuss.

We want to continue the dialogue of the RFS2.

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Larry Schafer

National Biodiesel Board

(b) (6)

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Suite 505

Washington DC 20004

**To:** Larry Schafer (b) (6)  
**From:** Argyropoulos, Paul  
**Sent:** Mon 11/4/2013 12:28:02 PM  
**Subject:** RE: FYI ... FW: Save the Date: Invitation to present at NBB Board of Directors Meeting on Tuesday, November 19

No Problem. It's important to all of us to have these type of interactions.

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

**From:** Larry Schafer (b) (6)  
**Sent:** Friday, November 01, 2013 12:24 PM  
**To:** Argyropoulos, Paul  
**Subject:** FYI ... FW: Save the Date: Invitation to present at NBB Board of Directors Meeting on Tuesday, November 19

Thanks Paul ...

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Larry Schafer

National Biodiesel Board

(b) (6)

(b) (6)

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Larry Schafer

National Biodiesel Board

(b) (6)

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-----

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Washington DC 20004



**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Fri 11/15/2013 6:04:14 PM  
**Subject:** BIO: Puzzling Course Change Could Be a Body Blow for Advanced Biofuels, BIO Says

**News Release**

1201 Maryland Avenue, SW 1 Ste. 900 1 Washington, D.C. 1 20024 1 202-962-9200

Web: [www.bio.org](http://www.bio.org)

Blog: [www.biotech-now.org](http://www.biotech-now.org)

Twitter:

[@IAmBiotech](https://twitter.com/IAmBiotech)

**Embargo: Nov. 15, 2013 2:00pm EST**

**Paul Winters**  
202-962-9237

**Puzzling Course Change Could Be a Body Blow for Advanced Biofuels, BIO Says**

Washington, D.C. (Nov. 15, 2013) – The Biotechnology Industry Organization (BIO) and its advanced biofuel members will make every effort to correct a flawed proposed rule on the 2014 volume obligations for the Renewable Fuel Standard, the group said today in response to the official release of the proposal. Brent Erickson, executive vice president of BIO's Industrial & Environmental Section, released the following statement:

"The proposed rule released today turns the logic of the RFS on its head and could significantly chill investments in advanced biofuels projects. We will focus over the immediate comment period on convincing the administration to right the course on this policy.

"Over the past five years, the RFS has successfully opened the U.S. transportation fuel market to renewable fuels, encouraging significant domestic investments and the rapid commercialization of advanced biofuels. The research and development catalyzed by this program has given birth to biotech innovations for renewable chemicals and other biobased products. The current proposal would have the effect of closing the market to renewable fuels and undermining the investment community's confidence in the program, starving advanced biofuel and biotech companies of the capital they need to successfully commercialize new and innovative technologies.

"The cost of complying with the RFS rose for some parties this year because they dug their heels in against allowing renewable fuels into the market. Other participants in the program have pursued a balanced strategy toward compliance. Attempting to lower the cost of compliance for those who made bad business decisions simply guts the program and renders it ineffective. If the rule is not modified, it is certain to reverse the advanced biofuel industry's progress.

"Advanced biofuel companies have put more than \$5 billion worth of private investment into this new technology so far, creating more than 7,600 permanent jobs. That investment has been put at risk by this

proposal. It does not seem prudent for the United States to discourage this type of major investment in innovation and reward incumbent refiners that have been recalcitrant participants in the RFS program. We cannot strangle the advanced biofuels baby in the cradle.”

### **About BIO**

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[World Congress on Industrial Biotechnology](#)  
May 12-15, 2014  
Philadelphia, PA

[BIO International Convention](#)  
June 23-26, 2014  
San Diego, CA

[Livestock Biotech Summit](#)

September 16-18, 2014

Sioux Falls, South Dakota

###

**To:** Larry Schafer (b) (6)  
**From:** Argyropoulos, Paul  
**Sent:** Fri 11/15/2013 7:08:30 PM  
**Subject:** RE: 2014 Renewable Fuel Standard Proposed Rule

Good one.....

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

Phone: 202-564-1123

Mobile: 202-577-9354

Email: argyropoulos.paul@epa.gov

Web: www.epa.gov

**From:** Larry Schafer (b) (6)  
**Sent:** Friday, November 15, 2013 2:07 PM  
**To:** Argyropoulos, Paul  
**Subject:** RE: 2014 Renewable Fuel Standard Proposed Rule

1.28 ...

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Larry Schafer

National Biodiesel Board

(b) (6)

(b) (6)

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**From:** Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]

**Sent:** Friday, November 15, 2013 2:07 PM

**To:** Larry Schafer

**Subject:** RE: 2014 Renewable Fuel Standard Proposed Rule

Just 1?

Paul Argyropoulos

Senior Policy Advisor

US EPA

Office of Transportation and Air Quality

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Mobile: 202-577-9354

Email: [argyropoulos.paul@epa.gov](mailto:argyropoulos.paul@epa.gov)

Web: [www.epa.gov](http://www.epa.gov)

**From:** Larry Schafer (b) (6)  
**Sent:** Friday, November 15, 2013 2:06 PM  
**To:** Argyropoulos, Paul  
**Subject:** RE: 2014 Renewable Fuel Standard Proposed Rule

Thanks Paul ...

Happy Friday ...

I need a drink!

-----  
Larry Schafer

National Biodiesel Board

(b) (6)

-----  
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Washington DC 20004

**From:** Argyropoulos, Paul [<mailto:Argyropoulos.Paul@epa.gov>]  
**Sent:** Friday, November 15, 2013 2:04 PM  
**To:** Undisclosed recipients:  
**Subject:** 2014 Renewable Fuel Standard Proposed Rule

**Dear Interested Parties**

## **EPA Proposes 2014 Renewable Fuel Standards, 2015 Biomass-Based Diesel Volume**

Today's regulatory action proposes to establish the annual percentage standards for the 2014 National Renewable Fuel Standard Program. This proposal seeks to put the RFS program on a steady path forward – ensuring the continued growth of renewable fuels while recognizing the practical limits on ethanol blending, called the ethanol “blend wall.” EPA is proposing to use existing authorities under the law – to reduce the advanced biofuel and total renewable fuel standards for 2014. The Agency is also proposing to maintain the same volume for biomass-based diesel for 2014 and 2015 as was adopted for 2013. Once the proposal is published in the *Federal Register*, it will be open for a 60 day public comment period.

The proposal discusses a variety of approaches for setting the 2014 standards, and includes a number of production and consumption ranges for key categories of biofuel covered by the RFS program. The proposal seeks comment on a range of total renewable fuel volumes for 2014, covering both ethanol and non-ethanol fuels, and proposes a level within that range for total renewable fuel at 15.21 billion gallons. For advanced biofuel, EPA proposes to reduce the statutory volume to the sum of the cellulosic volume, the biomass-based diesel requirement, and the additional non-ethanol advanced biofuels that could reasonably be expected to be available and consumed, at a level of 2.20 billion gallons.

The proposed standards reflect EPA's updated production projections, which are informed by extensive engagement with industry and a thorough assessment of the biofuels market. Proposing this reduction from the statutory levels is intended to put the program on a manageable trajectory while still allowing for growth in advanced and total renewable fuels over time. There are two different authorities in the statute that permit EPA to reduce volumes of advanced biofuel and total renewable fuel below the volumes specified in the statute. The proposal covers these authorities and the application of these authorities in setting the 2014 standards.

EPA has also received several requests from regulated parties to partially waive the statutory

volumes for 2014 and set them below the volumes specified in the statute. In a separate action, the Agency is seeking comment on these petitions for a waiver of the renewable fuel standards that would apply in 2014. EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS standards.

**Proposed 2014 Ranges and Volumes Tables**

The projected 2014 volumes used to determine the proposed percentage standards are shown in Table 1.

**Table 1**

Volumes Used to Determine the Proposed 2014 Percentage Standards

| Category             | Volumes        | Range                             |
|----------------------|----------------|-----------------------------------|
| Cellulosic biofuel   | 17 mill gal    | 8-30 million gallons              |
| Biomass-based diesel | 1.28 bill gal  | 1.28 billion gallons <sup>b</sup> |
| Advanced biofuel     | 2.20 bill gal  | 2.0-2.51 billion gallons          |
| Renewable fuel       | 15.21 bill gal | 15.00-15.52 billion gallons       |

<sup>a</sup>All volumes are ethanol-equivalent, except for biomass-based diesel which is actual

<sup>b</sup>EPA is requesting comment on alternative approaches and higher volumes

Four separate percentage standards corresponding to the four separate volume requirements shown in Table 1. The percentage standards represent the ratio of renewable fuel volume to non-renewable gasoline and diesel volume. Thus, in 2014 about 10% of all fuel used would be from renewable sources. The proposed standards for 2014 are shown in Table 2.

**Table 2**

**Proposed Percentage Standards for 2014**

|                       |               |
|-----------------------|---------------|
| Cellulosic biofuel    | 0.010 percent |
| Biomass-based diesel  | 1.16 percent  |
| Advanced biofuel      | 1.33 percent  |
| Total renewable fuels | 9.20 percent  |

**For more information on this proposal, please visit the RFS website at:**

[www.epa.gov/otaq/fuels/renewablefuels](http://www.epa.gov/otaq/fuels/renewablefuels)

Best Regards, Paul

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**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Brent Erickson  
**Sent:** Sat 11/16/2013 12:45:42 AM  
**Subject:** EPA RFS RVOs release - Media teleconference & Digital engagement clips  
EPA RVO announcement Press Clips.docx

Clips EPA release and industry reaction today attached.

**Brent Erickson**

Executive Vice President

Industrial and Environmental Section

Biotechnology Industry Organization (BIO)

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(b) (6)



***EPA 2014 RVO Proposal Clips***  
***November 15, 2013***

**Print & Online** (Full stories pasted below)

- [EPA proposes cut in ethanol mandate, handing victory to oil \(Politico Pro\)](#)
- [Ethanol's winning streak ends \(Politico\)](#)
- [Obama administration proposes reduction of ethanol in gasoline \(McClatchy\)](#)
- [EPA proposes scaling back amount of ethanol that must be blended in gasoline \(Des Moines Register\)](#)
- [EPA proposes reducing U.S. ethanol requirements in 2014 \(UPI\)](#)
- [U.S. EPA to unveil biofuel rules as soon as Friday \(Reuters\)](#)
- [Biofuels Producers Blame Big Oil for EPA Plan to Cut Renewable-Fuel Standard \(National Journal\)](#)
- [EPA Announces 2014 RVO Numbers for RFS \(Domestic Fuel\)](#)
- [EPA proposes smaller targets for biofuel use \(Washington Post\)](#)
- [Proposal would lower amount of ethanol and other biofuels required by law for first time \(Washington Post\)](#)
- [EPA retreats on ethanol mandate \(The Hill\)](#)
- [Renewable Fuel Quota Cut in EPA Change Sought by Refiners \(Bloomberg\)](#)
- [EPA proposes trim in renewable fuels blend; refiners mixed \(Market Watch\)](#)
- [EPA Shrinks Ethanol Mandate for First Time \(Wall Street Journal\)](#)
- [EPA proposes first-ever rollback of renewable fuel targets \(E&E\)](#)
- [Prairies Vanish in the U.S. Push for Green Energy \(Sci-Tech Today\)](#)
- [Fuels America members talk about EPA proposal, vow to fight back \(Biomass Magazine\)](#)
- [Oil companies win RFS round one \(Agriculture.com\)](#)
- [EPA proposes to reduce 2014 renewable fuels target \(Cattle Network\)](#)
- [EPA Proposes Reducing Biofuel Mandate \(ABC News\)](#)
- [Obama administration announces lower quotas for ethanol in gasoline \(The Guardian\)](#)
- [Parties Line Up to Support, Criticize Proposed 2014 RVO \(Opis\)](#)

## Print/Online Clips

[EPA proposes cut in ethanol mandate, handing victory to oil](#)

**POLITICO Pro**

**November 15, 2013**

The Environmental Protection Agency on Friday proposed the first cut in the amount of ethanol that must be blended into the nation's gasoline supply — a shift that marks a huge blow to corn growers and puts President Barack Obama uncharacteristically on the side of the oil industry.

EPA's action was widely expected, and came after a flurry of White House lobbying in the past two months by both the ethanol industry and opponents of the agency's biofuels mandate, including oil companies, food and soft drink manufacturers, Delta Air Lines and AAA.

The agency said it was reacting to market conditions that include an unexpected slowdown in consumers' demand for gasoline, which means the ethanol supply could soon outpace the amount motorists could actually use. The oil industry has warned that the result could be a spike in gasoline prices unless the government scales back the ethanol requirement — a phenomenon that mandate opponents call the "blend wall."

EPA made some last-minute changes aimed at softening the blow to ethanol producers, especially the non-corn portion of the market known as "advanced" biofuels. But bitterly disappointed ethanol supporters said the administration was succumbing to a fear campaign organized by Big Oil.

"EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said Bob Dinneen, CEO of the Renewable Fuels Association, a major ethanol industry group. "That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production. This proposal cannot stand."

"While only a proposed rule at this point, this is the first time that the Obama administration has shown any sign of wavering when it comes to implementing the RFS," said Brooke Coleman, executive director of the Advanced Ethanol Council.

But opponents of the mandate said they still want Congress to scrap the mandate entirely, and the oil industry is threatening to sue EPA if the final 2014 requirements include too many gallons for certain types of ethanol.

"For the first time EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impacts on America's fuel supply and harm to America's consumers," American Petroleum Institute CEO Jack Gerard told reporters during a conference call that included other mandate critics, such as the National Turkey Federation and the Chicken Council. But API and others are "continuing our call for Congress to act now" to repeal the mandate, he said.

Leaders of the turkey and chicken groups said they were focusing on repealing the mandate rather than litigation.

Friday's proposal concerns a program, known as the renewable fuels standard, that Congress created in 2005 and expanded in 2007. Until now, the mandate has required gasoline and diesel

refiners to blend ever-increasing amounts of ethanol into their fuel, an amount that hit 16.55 billion gallons this year and had been scheduled to reach 18.15 billion gallons next year.

Instead, EPA is proposing to set next year's requirement at 15 billion to 15.52 billion gallons. The midpoint of the range is 15.2 billion gallons, equal to what the mandate was in 2012.

It would be the first year-to-year drop in the mandate since Congress created the program in its current form. It could also tamp down efforts by some lawmakers to repeal the program entirely, since EPA is showing willingness to adjust the numbers on its own.

Within the overall ethanol mandate, the agency also wants to set separate ranges for individual segments of the industry. For example, refiners would have to use 2 billion to 2.51 billion gallons of advanced biofuels — a drop from this year's mandate of 2.75 billion gallons for that segment, and an even sharper drop from the 3.75 billion gallons that Congress originally envisioned for next year.

For one type of advanced biofuel, cellulosic ethanol made from plants like switchgrass and cornstalks, the mandate would be 8 million to 30 million gallons, and the mandate for biomass-based diesel would be 1.28 billion. The rest of the amount for advanced biodiesel could come from Brazilian ethanol made from sugarcane.

EPA expects to make a final decision by this spring.

Agency leaders said they're still committed to efforts to give ethanol a greater share of the market, such as by encouraging the sale of gasoline containing higher blends of ethanol than the now-common 10 percent. But they were short on specifics of how exactly that would work, even though EPA has taken steps to allow the sale of 15 percent ethanol blends, which it considers safe for newer cars.

Congress's intent in 2007 was to wedge biofuels into the nation's fuel mix for reasons that included cutting reliance on foreign oil imports, as well as cutting greenhouse gas emissions from cars. But since then the energy market has taken some unexpected turns: Oil imports are falling sharply, domestic drilling is up and gasoline demand is flat as the economy remains slow and cars have become more fuel-efficient.

At the same time, producers of advanced biofuels have failed to ramp up their production to commercial scale, with cellulosic ethanol in particular still struggling to get to its feet.

Corn ethanol, on the other hand, has thrived and production has surged. But gasoline with higher blends of ethanol — such as 15 or 85 percent — have not taken hold in the market.

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Ethanol's winning streak ends

**POLITICO**

**November 15, 2013**

So much for the fuel of the future.

By pulling back Friday on an effort to guarantee ethanol an ever-growing share of the nation's gasoline supply, the Obama administration could be putting a burgeoning industry into the deep freeze, just six years after biofuels drew strong support from both parties in Congress.

That chill will certainly affect the industry's powerhouse, corn ethanol. But the risk is far greater for smaller sectors of the industry still struggling to get out of the gate — those aimed at producing next-generation biofuels like "cellulosic" ethanol, made from ingredients like switchgrass and corn stalks.

Reasons for the turnaround are many: The boom in domestic oil drilling has dimmed the urgency to find other alternatives to Mideast petroleum, demand for gasoline has slumped, and criticism of the environmental impacts of corn ethanol has dimmed its luster nationally. Corn-based biofuel has for years been untouchable politically, as presidential candidates seemed to overpromise on ethanol every four years in Iowa — but even that clout may be waning as both the tea partiers on the right and greens on the left push to abandon it.

At the same time, ethanol has faced a growing counterattack from the oil industry, which argues that the mandate could cause gasoline prices to spike. Other opponents include the livestock, poultry and restaurant industries, which say turning corn into fuel drives up the cost of food.

Ethanol supporters say that if Friday's decision is the start of a lasting trend, both jobs and the promise of a new form of energy could be lost to other countries as the shifting federal winds scare off investment in advanced biofuels plants.

"The short answer is that it means stagnation in the biofuels market," said Bob Dinneen, president of the Renewable Fuels Association, one of the main ethanol advocacy groups. "So it's no growth, and no innovation or evolution of the industry into advanced biofuels or cellulosic ethanol. It's really about the future.

"Boy, my goodness, are the oil companies going to benefit from this," Dinneen added after the EPA announced its proposal Friday afternoon. "We're all just sort of scratching our heads here wondering why this administration is telling us to produce less of a clean-burning American fuel."

The administration has been promoting ethanol on multiple fronts, including requiring refiners to blend increasing amounts of ethanol into gasoline and pushing to allow higher-percentage ethanol blends to be sold at gas pumps. But EPA sent a very different signal Friday when it trimmed the blending mandate, the first year-to-year decline since Congress expanded the ethanol requirement in 2007.

"I don't know if the EPA is aiming for uncertainty, but they may inadvertently create it," said Jan Koninckx, the global business director of biorefineries for DuPont. "The impact could be that another country will lead this rather than the U.S."

Hugh Welsh, president of DSM North America, a company heavily invested in cellulosic biofuels, said investors take note of any hints in Washington about the future of the blending mandate, formally known as the renewable fuel standard.

"Everybody that I speak to in the investment bank community ... their first question is always, 'What's happening with this renewable fuel standard?'" Welsh said. "'What's the president's position on this?'"

As recently as the 2012 election, Obama's position seemed clear: He pledged to increase the use of biofuels and to support the mandate.

EPA leaders said Friday that they're still committed to ensuring that ethanol has a future in the U.S. fuel mix.

"Biofuels are a key part of the Obama administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," agency Administrator Gina McCarthy said in a statement. She said the agency "continues to support the RFS goal of increasing biofuel production and use."

Ethanol's critics say the world is just not what Congress expected in 2005, when it created the mandate, and in 2007, when it expanded it into its current form. Back then, oil imports were soaring, and gasoline demand was expected to continue to grow.

"Just about everything ... that that law was predicated on, the assumptions have proved to be null and void," said Charlie Drevna, president of the American Fuel & Petrochemical Manufacturers, a major petroleum trade group.

One complaint by the oil industry involves something it calls the "blend wall": With gasoline demand flat-lining, and most commonly sold gasoline containing only 10 percent ethanol, it will soon be physically impossible to blend more ethanol into the nation's fuel supply. Once that line is crossed, the oil companies say, refiners might have to cut production and gasoline prices will spike —the kind of headache no president wants to deal with.

But biofuel supporters say the administration is just rewarding the oil industry for dragging its feet on making higher-percentage ethanol fuels available. They say the mandate was always meant to encourage greater use of 15-percent or 85-percent ethanol blends — known as E15 and E85, respectively.

Those more potent blends remain niche or regional products, even though EPA has agreed to approve the use of E15 in newer cars despite the objections of the oil industry and some automakers. One reason: Not enough pumps, pipelines and other infrastructure exist to let motorists buy them.

DuPont's Koninckx said the oil industry groups complaining about the blend wall have known about the mandate for years, "and now they've complained about the fact that they haven't prepared for it."

"If the EPA says, 'OK, the oil industry says they can't do it, we won't ask them,' then they get away with it," he said.

Senate Agriculture Chairwoman Debbie Stabenow (D-Mich.) agreed Friday, saying that "the so-called blend wall is a crisis manufactured by the oil industry, which is interested in eliminating the competition so they can continue reaping even greater windfall profits."

Lawmakers in 2007 had specifically rejected allowing EPA to use factors like the blend wall to justify reducing the corn-ethanol portion of the mandate, Dinneen said.

"If you say the ability to distribute gasoline is a factor of the program," as EPA did in Friday's action, "then you've turned the program over to the oil companies," Dinneen said.

But it's unclear just what EPA could do to force the oil industry to acquiesce to adding the infrastructure to sell fuels that carve out more of its market share. EPA itself seems unsure.

There are “over 3,000 E85 stations currently operating in the country. We recognize that we want that market to grow and are looking for ... good ideas from people for how to get those markets to grow,” a senior administration official said Friday.

Both sides say ethanol will remain a part of the U.S. fuel supply even if Congress were to step in and scrap the mandate entirely. Consumers are used to the 10 percent ethanol blends, and the supply is certainly there.

But just maintaining the status quo is not what ethanol supporters expected from this administration. One ethanol sector, the biodiesel industry, said this week that even limiting its portion of the mandate to last year’s level could wipe out 8,000 to 12,000 jobs, equaling about \$500 million in lost wages.

The industry is also struggling with a slower than expected start for the more advanced — and potentially greener — forms of ethanol like cellulosic. Instead, the mandate mostly led to creation of more corn ethanol.

Under the 2007 law, the cellulosic biofuel industry was supposed to be producing 500 million gallons in 2012, rising to 1 billion gallons this year. Instead, last year’s total was 20,069 gallons, and this year’s production will also fall way short.

That wasn’t the only shortfall. “One of the big promises that wasn’t fulfilled with the RFS was the concept of drop-in biofuels, which would have really had a dramatic impact on the blend wall,” said Patrick Kelly, a senior policy adviser with the American Petroleum Institute. “Drop-in” biofuels could simply be put into existing fuel pumps and used like regular gasoline, diesel or jet fuel, rather than requiring separate infrastructure the way corn ethanol does.

Without more progress for the advanced fuels, many of the administration’s green allies are loathe to throw their support behind biofuels when that essentially means championing corn ethanol, which they see as having a dubious environmental record.

That leaves biofuel producers like Welsh wondering where their future lies.

His company has invested \$150 million in U.S. projects, and various companies have spent billions of dollars on advanced ethanol in the last two years, Welsh said. His company plans to produce commercial quantities of cellulosic ethanol at a plant in Iowa next year.

Now they and others in the advanced biofuels industry are likely to start looking outside of the U.S., Welsh said. The “gasoline industry enjoys a monopoly here,” he said.

Koninckx said that’s what Big Oil wants.

”What the opponents of renewable fuel, the people who want to keep the status quo will get, is uncertainty,” he added. “And the uncertainty helps them. Because it will shy away investments. It will shy away initiative.”

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Obama administration proposes reduction of ethanol in gasoline

**McClatchy**

**November 15, 2013**

WASHINGTON – The Obama Administration today proposed the first-ever reduction in the

amount of ethanol in the gasoline supply, signaling retreat from the Renewable Fuel Standard passed by Congress in 2007.

The Environmental Protection Agency wants 15.21 billion gallons of renewable fuels blended into gasoline and diesel next year, down from 16.55 billion gallons this year. Most of it is corn-based ethanol.

The EPA is proposing the biofuel reduction as oil companies argue that if there is more than 10 percent ethanol in motor fuel it could cause engine damage, a potential issue that's known as the blend wall.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and that breaching it would serious impacts on America's fuel supply and would be harmful for American consumers," said Jack Gerard, who leads the American Petroleum Institute, the oil industry's main trade group.

Biodiesel advocates said the ethanol is not a problem for engines. The Advanced Ethanol Council, a trade group, said today the oil industry is using "imaginary blend walls," to try to keep biofuels from cutting into oil profits.

The ethanol group expressed hope that EPA could be convinced to change course before finalizing its decision.

The EPA said Friday that it will seek answers on how to deal with the 10 percent blend wall. Nearly all gasoline sold in the U.S. now has up to 10 percent ethanol, the agency said, and as vehicle fuel economy increases and demand for gasoline declines adding additional biofuels would push it higher.

So even though biofuel use should be growing under the targets set by the Renewable Fuel Standard passed by Congress six years ago, the EPA said that isn't feasible because of the blend wall.

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EPA proposes scaling back amount of ethanol that must be blended in gasoline

**Des Moines Register**

**November 15, 2013**

The U.S. Environmental Protection Agency has proposed scaling back the amount of ethanol that is blended into gasoline.

The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons. Congress initially wrote an 18.15 billion gallon mandate.

The reaction initially has been critical:



“Today’s RFS announcement represents the biggest policy reversal of the entire Obama Administration,” stated Monte Shaw, Executive Director of the Iowa Renewable Fuels Association. “The EPA proposal turns the RFS on its head, runs counter to the law and is a complete capitulation to Big Oil. The Obama Administration needs to conduct a thorough soul-searching and decide whether they are serious about cleaner fuels, consumer choice, and cutting petroleum dependence, or whether they truly want to adopt the Big Oil status quo. There is still time to restore Congressional intent and common sense before the rule is finalized.”

The proposal lowers the “corn ethanol” level from 13.8 billion gallons in 2013 to only 13 billion gallons in 2014. The proposal also freezes the biodiesel level at 1.28 billion gallons despite the fact the biodiesel industry is currently operating at an annualized rate of 2 billion gallons.

Here’s the release:

#### Proposal Seeks Input to Address “E10 Blend Wall,” Reaffirms Commitment to Biofuels

WASHINGTON – The U.S. Environmental Protection Agency (EPA) today proposed for public comment the levels of renewable fuels to be blended into gasoline and diesel as required by Congress under the Energy Independence and Security Act of 2007. Developed with input from the U.S. Department of Energy and U.S. Department of Agriculture, the proposal seeks public input on annual volume requirements for renewable fuels in all motor vehicle gasoline and diesel produced or imported by the United States in 2014. The proposal seeks to put the Renewable Fuel Standard (RFS) program on a steady path forward – ensuring the continued long-term growth of the renewable fuel industry – while seeking input on different approaches to address the “E10 blend wall.”

“Biofuels are a key part of the Obama Administration’s “all of the above” energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs,” said EPA Administrator Gina McCarthy. “We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program.”

The proposal discusses a variety of approaches for setting the 2014 standards, and includes a number of production and consumption ranges for key categories of biofuel covered by the RFS program. The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons. Specifically, EPA is seeking comment

on the following proposed volumes:

Category Proposed Volume a Range

Cellulosic biofuel 17 mill gal 8-30 million gallons

Biomass-based diesel 1.28 bill gal 1.28 billion gallons

Advanced biofuel 2.20 bill gal 2.0-2.51 billion gallons

Renewable fuel 15.21 bill gal 15.00-15.52 billion gallons

All volumes are ethanol-equivalent, except for biomass-based diesel which is actual

Nearly all gasoline sold in the U.S. is now “E10,” which is fuel with up to 10 percent ethanol. Production of renewable fuels has been growing rapidly in recent years. At the same time, advances in vehicle fuel economy and other economic factors have pushed gasoline consumption far lower than what was expected when Congress passed the Renewable Fuel Standard in 2007. As a result, we are now at the “E10 blend wall,” the point at which the E10 fuel pool is saturated with ethanol. If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85.

The Obama Administration has taken a number of steps to allow or encourage the use of these higher ethanol blends. In 2010, EPA approved E15 for use in vehicles newer than model year 2001 and developed labeling rules to enable retailers to market E15. In addition, since 2011, USDA has made funding available through the Rural Energy for America Program to support deployment of “flex-fuel” pumps that can dispense a range of ethanol blends. The 2014 proposal seeks input on what additional actions could be taken by government and industry to help overcome current market challenges, and to minimize the need for adjustments in the statutory renewable fuel volume requirements in the future. Looking forward, the proposal clearly indicates that growth in capacity for ethanol consumption would continuously be reflected in the standards set beyond 2014. EPA looks forward to further engagement and additional information from stakeholders as the agency works in consultation with the Departments of Agriculture and Energy toward the development of a final rule.

The renewable fuels program was developed by Congress in an effort to reduce greenhouse gas

emissions and expand the nation's renewable fuels sector while reducing reliance on foreign oil. The standards determine how much renewable fuel a refiner or importer is responsible for, and are the standards designed to achieve the national volumes for each type of renewable fuel.

Today, in a separate action, EPA is also seeking comment on petitions for a waiver of the renewable fuel standards that would apply in 2014. EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS.

Once the proposal is published in the Federal Register, it will be open to a 60-day public comment period.

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EPA proposes reducing U.S. ethanol requirements in 2014

**UPI**

**November 15, 2013**

WASHINGTON, Nov. 15 (UPI) -- The Obama administration Friday proposed reducing the mandated amount of ethanol to be used in the U.S. gasoline supply next year.

The Environmental Protection Agency recommended a Renewable Fuels Standard of 13.01 billion gallons, which is down from 14.4 billion gallons required this year.

The agency said the step back was in line with an overall dip in gasoline consumption in the United States and a "blend wall" indicating the gasoline market had all of the ethanol it needed to meet so-called E10 standards in which gasoline at the pump contains 10 percent ethanol.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy said in a statement. "We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program."

The proposal will be open to public comment for 60 days, but the ethanol and oil industries were quick to express their views on the controversial mandate. The ethanol producers were unhappy with the EPA's proposal, while the oil lobby said the agency and Congress should scrap the RFA altogether.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality that must be addressed to avoid serious impacts on America's fuel supply and would be harmful for American consumers," said Jack Gerard, president and CEO of the American Petroleum Institute. "While the agency took a step in the right direction, more must be done to ensure Americans have the choice of ethanol-free gasoline for boats and small engines, and to bring their mandates closer to reality on cellulosic biofuels, which do not exist in commercial quantities."

The Renewable Fuels Association, however, said rolling back alternative fuels would lead to

increased oil consumption and leave motorists at the mercy of volatile prices. "Cutting ethanol consumption by 1.39 billion gallons will increase demand for gasoline by 948 million gallons," the association said in a written statement. "According to Louisiana State University, that bump in demand for gasoline will increase gasoline prices by 5.7 cents per gallon across the board. As a result, American drivers will spend \$7.6 billion more on gasoline purchases in 2014."

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U.S. EPA to unveil biofuel rules as soon as Friday

**Reuters**

**November 14, 2013**

Nov 14 (Reuters) - U.S. environmental regulators are likely to unveil rules on Friday dictating how much ethanol and other renewable fuels must be blended into the U.S. gasoline supply in 2014, following weeks of lobbying by the oil and biofuels industries, industry sources who have been briefed on the process said on Thursday.

Environmental Protection Agency (EPA) Administrator Gina McCarthy testified before a House panel on Thursday that the proposed Renewable Fuel Standard (RFS) for 2014 was "soon to be proposed."

Some industry sources briefed by the agency said were told they would see the proposal as soon as Friday.

Rumors have circulated, based on a leaked draft of the EPA's proposals, that the agency will require less corn-based ethanol to be blended into U.S. gasoline in 2014 than the 14.4 billion gallons now required by law, and less than the 13.8 billion mandated for this year. Gasoline producers had pushed for a lower ethanol requirement, while ethanol makers and farmers had pushed to maintain current levels.

McCarthy added at the hearing of the House Science Committee that once released, the proposal will "take some time" to finalize.

Petroleum industry lobbyists have threatened to sue the EPA if the 2014 biofuel requirements are not finalized by the end of November.

McCarthy defended the administration's approval of the sale of E15, a gasoline blend with 15 percent ethanol content, for vehicles younger than the 2001 model year. Much of the gasoline sold in the United States contains 10 percent ethanol.

Opponents say the higher ethanol blend damages some car engines and is a way for regulators to favor the renewable fuels industry.

Congressman Jim Sensenbrenner, a Wisconsin Republican, asked McCarthy if the EPA planned to conduct further testing of the safety of the fuel.

McCarthy said the EPA stands by its current research with the Department of Energy. "We continue to believe E15 is appropriate and, where available, is being used by vehicles that are 2001 and younger," she said. About 70 percent of U.S. cars and light trucks are approved for the higher ethanol blend.

Pro- and anti-ethanol groups have made a fierce push to sway the EPA's proposal, which has been pending with the White House's Office of Management and Budget since Aug. 30.

Groups were still lobbying at the eleventh hour. Fuels America, a biofuel group, has aired television advertisements this week urging the EPA to "protect the renewable fuel standard."

U.S. Agriculture Secretary Tom Vilsack, at an event in Washington on Thursday, said he did not know if the biofuel mandate will be lowered for 2014 or when the proposal would be released. But the government is not "moving away" from its support of renewable fuels, he said.

Vilsack also said that USDA needed to be more active in pushing the owners of pumping stations for wider distribution of fuel with blends of ethanol that exceed the legal requirement.

Over the past decade, U.S. drivers have purchased more than 10 million flex-fuel vehicles, which can run on E85, a fuel containing 85-percent ethanol fuel. But finding gasoline stations that sell E85 fuel can be difficult, especially outside the Corn Belt, where much of the U.S. ethanol supply originates.

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Biofuels Producers Blame Big Oil for EPA Plan to Cut Renewable-Fuel Standard

**National Journal**

**November 15, 2013**

Biofuels makers and corn producers are not happy about the Environmental Protection Agency scaling back on renewable-fuel levels for next year, and they're united about who's to blame: the oil industry.

"EPA's proposal fundamentally betrays this administration's commitment to clean renewable

fuels and caves to big-oil demands," said Brian Jennings of the American Coalition for Ethanol. Added Renewable Fuels Association President Bob Dinneen: "Last time I checked, the oil companies were doing pretty good on their own."

Petroleum groups are part of a coalition that has pushed for a reduction in the federal mandate for renewable-fuel production, arguing gasoline blends with higher ethanol content could prove damaging to engines and drive up fuel costs. "For the first time, EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impacts on America's fuel supply and harm to American consumers," said Jack Gerard, president of the American Petroleum Institute. "[But] while the EPA took a step in the right direction, more must be done to assure Americans have the choice of fuel they want and we're continuing or call for Congress to act now."

EPA announced Friday that it is proposing to lower the statutory requirement for biofuels production in 2014 from 18.15 billion gallons to a recommended target of 15.21 billion gallons. The agency also proposes a range of 2 billion to 2.51 billion gallons of advanced biofuels with a recommended target of 2.2 billion gallons. The range falls below the proposed target of 3.75 billion gallons under the Energy Security and Independence Act of 2007.

Reactions to the proposal were unanimously negative from the biofuels industry, while oil refiners, food marketers, and even recreational groups were delighted. Critics of the renewable-fuels standard, which was enacted with the goal of reducing U.S. dependence on foreign oil, say it has increased both fuel and food prices by shifting vast amounts of corn into ethanol production.

"Study after study has shown that the corn-ethanol mandate has artificially driven up commodity costs by billions of dollars annually, and with it, consumer prices," said Rob Green, executive director of the National Council of Chain Restaurants. "Today's proposal by the EPA reaffirms our steadfast belief that Congress needs to repeal the RFS mandate once and for all."

"While we are thankful and support the action EPA is taking today, its timid adjustment reconfirms the program is broken beyond repair," said National Chicken Council President Michael J. Brown.

"We appreciate the clear step that EPA has taken to not only acknowledge the unattainable mandates included in the renewable-fuel standard but to also leave room for consumers, manufacturers, and industries, including the recreational-boating community, that rely on the continued availability of low-ethanol fuel blends," said the National Marine Manufacturers Association's John McKnight.

Among the other negative reactions were these:

- "What we're seeing is the oil industry taking one last run at trying to convince administrators of the RFS to relieve the legal obligation on them to blend more biofuel based on clever arguments meant to disguise the fact that oil companies just don't want to blend more biofuel." —Brooke Coleman of the Advanced Ethanol Council.
- "[Friday's] proposal reveals that EPA might still deliver a devastating blow to this nascent sector and a victory for the oil industry by cutting the volume requirements for advanced biofuels." — Advanced Biofuels Association President Michael McAdams.
- "We cannot put oil's interests before the nation's needs. Blending more renewable fuel means more savings for consumers at the pump." — Novozymes North America President Adam Monroe.

Members of Congress also weighed in on the EPA proposal. Most significantly, House Energy and Commerce Chairman Fred Upton, R-Mich., and ranking member Henry Waxman, D-Calif., issued a joint statement generally supporting the EPA proposal—though in different tones—and indicating they are working together to address the growing controversy about the renewable-fuel standard.

Other reactions fell along regional lines. Rep. Bruce Braley, D-Iowa, who is running for Senate in the middle of corn country, said "growth in Iowa's renewable-energy industry stands to suffer, putting job growth at risk" as a result of the policy shift.

Rep. Peter Welch, D-Vt., an outspoken RFS opponent, called the EPA announcement "welcome news" and a sign for Congress to change the policy.

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#### EPA Announces 2014 RVO Numbers for RFS

#### **Domestic Fuel**

**November 15, 2013**

The U.S. Environmental Protection Agency (EPA) has released its proposal for the 2014 Renewable Volume Obligations (RVOs) as part of the Renewable Fuel Standard (RFS) for the amount of renewable fuels to be blended into gasoline and diesel. The EPA has proposed to set the cellulosic biofuel category at 17 million gallons, biomass-based diesel at 1.28 billion gallons, advanced biofuel at 2.20 billion gallons and renewable fuel at 15.21 billion. Development with input from the U.S. Department of Energy and U.S. Department of Agriculture, the proposal seeks public input.

According to the EPA, the proposal seeks to put the RFS program on a steady path forward – ensuring the continued long-term growth of the renewable fuel industry – while seeking input on different approaches to address the “E10 blend wall.”

“Biofuels are a key part of the Obama Administration’s “all of the above” energy strategy,

helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs,” said EPA Administrator Gina McCarthy. “We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program.”

EPA says the proposal discusses a variety of approaches for setting the 2014 standards, and includes a number of production and consumption ranges for key categories of biofuel covered by the RFS program. The proposal seeks comment on a range of total renewable fuel volumes for 2014 and proposes a level within that range of 15.21 billion gallons.

The EPA cites that the majority of gasoline sold in the U.S. is now “E10,” which is fuel with up to 10 percent ethanol. Production of renewable fuels has been growing rapidly in recent years. At the same time, advances in vehicle fuel economy and other economic factors have pushed gasoline consumption far lower than what was expected when Congress passed the RFS in 2007. As a result, the country is now at the “E10 blend wall,” the point at which the E10 fuel pool is saturated with ethanol. If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85.

The EPA says that the Obama Administration has taken a number of steps to allow or encourage the use of these higher ethanol blends. In 2010, EPA approved E15 for use in vehicles newer than model year 2001 and developed labeling rules to enable retailers to market E15. In addition, since 2011, USDA has made funding available through the Rural Energy for America Program to support deployment of “flex-fuel” pumps that can dispense a range of ethanol blends. The 2014 proposal seeks input on what additional actions could be taken by government and industry to help overcome current market challenges, and to minimize the need for adjustments in the statutory renewable fuel volume requirements in the future.

Looking forward, says the EPA, the proposal “clearly indicates” that growth in capacity for ethanol consumption would continuously be reflected in the standards set beyond 2014. EPA also says it looks forward to further engagement and additional information from stakeholders as the agency works in consultation with the Departments of Agriculture and Energy toward the development of a final rule.

In a separate action, EPA is also seeking comment on petitions for a waiver of the renewable fuel standards that would apply in 2014. EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS. Once the proposal is published in the Federal Register, it will be open to a 60-day public comment period.

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[EPA proposes smaller targets for biofuel use](#)

**Washington Post**  
**November 15, 2013**

The Environmental Protection Agency on Friday proposed lowering requirements for biofuel use



in 2014, trimming targets for corn-based ethanol use for the first time.

The proposal would set ethanol use at 15.21 billion gallons, just under 10 percent of motor fuel and 16 percent lower than targets established by Congress in 2007.

The proposal angered farm groups, corn ethanol producers and supporters of biodiesel, but it mollified oil companies, which have long argued that if the content of ethanol in motor fuel exceeded 10 percent — known as the blend wall — it might damage cars, motorcycles and lawn mowers. Groups representing ethanol makers say that mixing significantly higher levels of ethanol with gasoline would not harm vehicles.

“Facts are facts,” said Stephen H. Brown, vice president for governmental affairs at the oil refiner Tesoro. “They’re so stubborn even this administration has to accept them.”

“They’re capitulating to the oil companies,” Bob Dinneen, president of the Renewable Fuels Association, said of the administration. He said the EPA’s proposed targets would hurt farmers and violate the spirit of the renewable fuels standard Congress adopted. “The RFS was about forcing marketplace change,” he said, “and EPA is giving the oil companies a get of jail free card.”

The EPA proposal, which includes ranges for each of the different kinds of renewable fuels, will be subject to comment before becoming final sometime in the first quarter of 2014.

The EPA quotas for biofuels are part of the renewable fuel standards established under energy legislation passed by Congress in 2007. Congress, eager to replace a portion of U.S. oil imports with homegrown fuel and to reduce the greenhouse gas emissions from transportation fuels, set a schedule that would phase in corn-based ethanol and later ethanol made from things other than food, such as switchgrass, corn cobs and stalks, waste or wood chips.

Congress, aware that the ethanol industry might evolve differently, also gave the EPA authority to alter the production targets if they proved unrealistic.

The American Petroleum Institute has been lobbying to repeal the renewable fuel standard altogether, and the new proposed ranges did not entirely placate the group. API President Jack Gerard said that “more must be done” and “ultimately Congress must protect consumers from this outdated and unworkable program.”

But some industry officials said that if the EPA sticks to the blend wall, they will be satisfied. Oil refiners need to mix nearly that much ethanol into motor fuel anyway to meet octane requirements.

The new proposal is in line with numbers included in a leaked version last month. The midpoint of every range is the same as those earlier figures.

The EPA on Friday set an overall ceiling of 15.21 billion gallons for renewable fuels in 2014, about 16 percent lower than the 18.15 billion gallons Congress had originally set and lower than the 16.55 billion gallon requirement for this year.

The biggest portion of that is corn-based ethanol, which will provide about 13.8 billion gallons this year but next year would be limited to 13 billion gallons under the proposal. In 2007, Congress had set a 15 billion gallon limit on corn-based ethanol because of concern about using food for fuel. With a record corn crop expected this year, ethanol is expected to use about 38 percent of the crop, while using leftover material to return 16 percent of the total crop to the feed

industry, Dinneen said.

“Farmers planted 93 million acres to get that corn crop in anticipation of a growing fuel market,” Dinneen said. “EPA just took 500 million bushels of demand away from the farmers. That’s going to have a significant impact on corn prices, and corn prices were already falling.”

Officials from the livestock and poultry industry, however, on a conference call organized by the API, said there wasn’t any more need to set ethanol volume requirements than there was for setting requirements for turkey output.

The EPA also lowered the target production of so-called cellulosic ethanol, which is made from things other than corn, such as switch grass, corn cobs and stalks, and wood chips. The middle of the cellulosic ethanol target range — about 17 million gallons — is high enough to make room for several companies that say they will be able to start up commercial-scale distilleries early next year, but the amount produced will be a drop in the bucket of American motor fuel consumption.

The 2007 legislation mandated that the use of cellulosic ethanol grow gradually until it hit 16 billion gallons in 2022.

The administration Friday also set a target range for all advanced biofuels of 2 billion to 2.5 billion gallons. Producers of biodiesel, which falls under that category, say they can provide more. On Thursday, 32 senators sent a letter to EPA administrator Gina McCarthy, asking the administration to set a volume requirement of at least 1.7 billion gallons for biodiesel alone.

“Biodiesel has exceeded RFS targets in each year and is clearly poised to do so again in 2013,” they wrote. “The industry has had impressive growth, going far beyond initial expectations just five years ago, and is supporting 62,160 jobs and nearly \$17 billion in total economic impact.”

Related: Cellulosic ethanol is off to a delayed, boisterous start Why hasn’t cellulosic ethanol taken over the industry?

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Proposal would lower amount of ethanol and other biofuels required by law for first time  
**Washington Post**  
**November 15, 2013**

WASHINGTON — The Obama administration on Friday proposed to reduce the amount of ethanol in the nation’s fuel supply for the first time, acknowledging that the biofuel law championed by both parties in 2007 is not working as well as expected.

While the proposal highlights the government’s struggle to ramp up production of homegrown biofuels that are cleaner-burning than gasoline, it is unlikely to mean much for consumers at the pump.

The change would reduce by almost 3 billion gallons the amounts of ethanol and other biofuels blended into gasoline in 2014 than the law requires.

The 2007 law tried to address global warming, reduce dependence on foreign oil and prop up the rural economy by requiring oil companies to blend billions of gallons of biofuels into their

gasoline each year. But politicians who wrote the law didn't anticipate fuel economy to improve as much as it has in recent years, which reduced demand for gasoline.

Meanwhile, next-generation biofuels, made from agricultural waste such as wood chips and corn cobs, have not taken off as quickly as Congress required and the administration expected.

President Barack Obama has championed biofuels since his days representing Illinois in the Senate, and his administration has resisted previous calls to lower biofuel volumes or repeal the law.

EPA officials said they were still committed to alternative fuels as part of a comprehensive energy strategy. If the EPA stuck to the volumes mandated by law, the amount of biofuel required would generate more ethanol than many engines can safely handle, officials said.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy, referring to the 2007 law called the Renewable Fuel Standard.

Biofuel supporters, however, said the proposal marked a departure for the Obama administration.

"This is the first time that the Obama administration has shown any sign of wavering," said Brooke Coleman, executive director of the Advanced Ethanol Council.

Bob Dinneen, the head of the Renewable Fuels Association, the Washington group that lobbies on behalf of the ethanol industry, said the announcement is ill-timed as the country is currently harvesting a record corn crop. He said the industry may sue if the proposal is not altered.

"This is exactly the wrong time to be reducing the required volumes of renewable fuels," Dinneen said.

The ethanol mandate created an unusual alliance between oil companies, which have seen ethanol cut into their share of the gasoline market, and environmental groups that oppose planting more corn for fuel. A recent AP investigation found that corn-based ethanol's effect on the environment is far worse than the government predicted or admits.

The oil industry lobbied hard for a reduction and is pleading with Congress to completely repeal the law.

Jack Gerard, president and CEO of the American Petroleum Institute, said the EPA's move is a step in the right direction, but "ultimately, Congress must protect consumers by repealing this outdated and unworkable program once and for all."

House Energy and Commerce Committee Chairman Fred Upton, R-Mich., said his panel is working on "comprehensive reforms" to the law.

"The status quo is no longer workable," Upton said.

Also in the proposal, the requirement for the amount of next-generation biofuels from nonfood plant sources, called cellulosic fuels, has been reduced for the fifth time in five years. The original law required 1.75 billion gallons of this fuel, which offers huge reductions in greenhouse gases compared with oil. For 2014, refiners would be required to blend 17 million gallons.

That's because companies have not yet been able to generate these fuels, which are far more complicated to produce than conventional biofuels, at high volumes. The target for next year does represent an increase from last year's 6 million gallons, though, and cellulosic fuels are the

only category of biofuel to increase under the 2014 proposal. Two new cellulosic biofuel refineries are expected to begin producing fuel early next year.

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EPA retreats on ethanol mandate

**The Hill**

**November 15, 2013**

The Environmental Protection Agency (EPA) is cutting the amount of ethanol and other biofuels that must be blended into the nation's fuel supply, a victory for oil companies that call the federal ethanol mandate unworkable.

On Friday, the EPA proposed draft 2014 blending volumes under the federal Renewable Fuel Standard that are lower than the 2013 requirements, and far less than called for in a 2007 law that expanded the mandate.

The EPA is proposing to require 15.21 billion gallons in 2014, down from 16.55 billion gallons in 2013, marking the first time the agency has lowered the target from the prior year.

A senior administration official said the Obama administration is firmly supportive of biofuels, but said "market, infrastructure and other constraints" warrant paring back the mandate.

"The realities of the fuel market must be addressed to properly implement the program," the official said.

U.S. gasoline consumption is lower than anticipated when the program was established.

Getting gasoline with ethanol levels higher than 10 percent — known as E-85 and E-15 to signify their ethanol levels — into the market requires new and retrofitted infrastructure.

Also, commercial development of next-wave biofuels like cellulosic ethanol has not proceeded as quickly as advocates had hoped.

"The proposed adjustments are intended to put the program on a steady path while supporting continued growth in renewable fuels over time," the official said.

"The amount of ethanol in the system is at the point where the blend wall is being reached," the official said, referring to the highest amount of ethanol that the market can currently accommodate.

The oil industry is pushing to dismantle the biofuels mandate completely, but cheered the EPA's proposed action.

"For the first time EPA has acknowledged that the blend wall is a dangerous reality. While the agency took a step in right direction more must be done to ensure more Americans have a choice

of fuels they want,” American Petroleum Institute President Jack Gerard said on a call with reporters.

The proposal drew a rebuke from the biofuels industry.

“By re-writing the statute and re-defining the conditions upon which a waiver from the RFS can be granted, EPA is proposing to place the nation’s renewable energy policy in the hands of the oil companies,” said Bob Dinneen, president of the Renewable Fuels Association, a major ethanol industry trade group.

“That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production,” he said in a statement.

Anne Steckel, the National Biodiesel Board’s vice president of federal affairs, called the proposal “surprising and disappointing.”

“This proposal, if it becomes final, would create a shrinking market, eliminate thousands of jobs and likely cause biodiesel plants to close across the country,” she said.

Administration officials who spoke with reporters on a call Friday emphasized that they will take comment from stakeholders on a range of volumes, leaving open the possibility that the numbers could be altered in a final rule next year.

The agency will take comment on a total range between 15 billion and 15.52 billion gallons.

For “advanced” biofuels, the EPA is proposing to require 2.2 billion gallons but taking comment on a range between 2 billion and 2.51 billion, the official said. The 2013 standard for these fuels is 2.75 billion gallons.

The proposal also reduces the amount of traditional corn ethanol that refiners must blend into gasoline, which is set at 13.8 billion gallons in 2013 but would fall to back to 13 billion under the agency plan.

The administration official said the Obama administration remains supportive of biofuels.

“Biofuels are a key part of this administration’s all-of-the-above energy strategy,” the official said, calling the renewable fuels a way to displace oil imports, help address climate change and create jobs.

But Friday’s proposal is nonetheless a victory for ethanol’s opponents.

“This administration has accepted the central argument of the refining industry that the blend wall is real and that the statutory volumes no longer have any relevance based on market realities,” said Stephen Brown, vice president for federal government affairs with the oil refiner Tesoro Corp.

Critics of the ethanol mandate, while welcoming EPA's decision to back off somewhat, reiterated calls for Congress to kill the program outright.

"While we are thankful and support the action EPA is taking today, its timid adjustment reconfirms the program is broken beyond repair. This is a good first step, but ultimately, Congress must act," said Michael J. Brown, president of the National Chicken Council.

Livestock and poultry groups, restaurants and other interests oppose the biofuels mandate, arguing that it raises feed and food costs. The ethanol industry disputes those claims.

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#### Renewable Fuel Quote Cut in EPA Change Sought by Refiners

##### **Bloomberg**

**November 15, 2013**

The Obama administration proposed a cut in the amount of renewable fuels that refiners must blend with gasoline next year, bowing to oil industry complaints that the targets contained in 2007 legislation were too high.

In a draft rule released today, the U.S. Environmental Protection Agency said it would require between 15 billion to 15.52 billion gallons of renewable fuels such as corn ethanol and biodiesel in 2014. That compares with 18.15 billion gallons set in the legislation, making it the first time the legal mandate would be cut.

This "acknowledges a drastic change in the U.S. energy outlook since the renewable fuels mandate was put in place," Jason Bordoff, the head of the Center on Global Energy Policy at Columbia University and former White House official under President Barack Obama, said in a statement. It "marks a notable shift in the administration's biofuel policy."

The proposal, which was applauded by refiners and panned by corn growers and ethanol makers, would lower costs for refiners such as Valero Energy Corp. that must blend the fuel into gasoline.

Valero rose 16 cents to \$43 at 4 p.m. in New York Stock Exchange trading, while Archer-Daniels-Midland Co, which processes corn and other agricultural products, dropped \$1.44 to \$40.56, its biggest decline since Aug. 26. Prices of soybeans, used to make biodiesel, fell the most in six weeks, and corn futures dropped 1.4 percent to \$4.305 a bushel in Chicago.

Refiners, fast-food restaurants, motorboat makers and chicken farmers have all pushed the EPA to scale back the ethanol mandate, saying it risks ruining engines by forcing more ethanol to be blended into gasoline and is acting to push up demand for corn. Gasoline demand is falling, and so rising requirements for renewable fuels are ramping up the percentage of those fuels in the total mix, putting the amount of ethanol required near the 10 percent refiners label the "blend wall" that can damage engines.

"While the agency took a step in the right direction, more must be done to ensure Americans have the choice of ethanol-free gasoline," said Jack Gerard, the chief executive of the American Petroleum Institute, the Washington-based group that represents companies such as Exxon Mobil

Corp. “They are getting close to making sure they don’t breach us through the blend wall.”

Within the range of values it provided, the EPA listed specific volume requirements it was proposing: 15.21 billion gallons for renewable fuel generally and 2.2 billion for advanced biofuels. A final rule is due in the first quarter of 2014, after refiners and ethanol makers weigh in.

The agency also proposed a range for the mandate for biodiesel and cellulosic products, such as those made from corn stalks or woody waste, of 2 billion gallons to 2.5 billion gallons. That’s below the 3.75 billion gallon target spelled out in the legislation, and is in line with the 2.21 billion gallons from an August draft that was leaked.

“The proposed reduction from EPA is troubling, as it not only cuts grain ethanol use below the levels set by Congress, it cuts them to a level below the 13.8 billion that was met in 2013,” said Jeff Lautt, the chief executive of ethanol maker Poet LLC. “Under this rule, American drivers and American farmers lose and Big Oil wins.”

EPA officials say they are listening to those concerns and have pledged to preserve a market for what are dubbed “next generation fuels.” In presenting a range, the agency would allow outside groups to comment over the next two months prior to a final EPA decision.

Advanced biofuel, such as biodiesel and Brazilian ethanol, is part of a larger program for renewable fuels that is anchored by corn-based ethanol. Corn growers and the ethanol industry are pushing for an increase in the 13 billion-gallon quota called for in the leaked August plan, which is below the 14.4 billion gallons in the law. The EPA has the ability to adjust the quotas in response to market pressures.

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EPA proposes trim to renewable fuels blend; refiners mixed

#### **MarketWatch**

**November 15, 2013**

The Environmental Protection Agency on Friday proposed trimming the amount of biofuel refiners must blend into fuels next year, acknowledging that the standards are difficult to meet.

The proposal calls for refiners to blend 15.21 billion gallons of renewable fuel, mostly corn-based ethanol, into U.S. gasoline and other fuels next year — about 16% less than what had been determined for this year, and about 8% less than the 16.55 billion gallons to be blended this year.

The proposal is subject to a comment period before becoming final early next year.

The proposed standards would cut down on compliance costs for refiners. Refiner stocks were mixed on Friday, as were stocks of large ethanol producers.

Shares of Tesoro Corp. and Phillips 66 were down 1.4% and 0.8%, respectively. Shares of Valero Energy Corp., a refiner but also a major ethanol producer, rose 0.5%. Energy stocks on the S&P 500 Index rose 0.6%.

Shares of ethanol producer Pacific Ethanol Inc were up 13%, while shares of Archer-Daniels-Midland Co. declined 2.9%.

The EPA sets a minimum volume of renewable fuels that must be blended into U.S. fuels such as gasoline and diesel as part of a federal program first enacted in 2005 and updated two years later

to curb greenhouse-gas emissions.

The EPA reviews the standard each year, and the industry had warned that as enacted would lead to hitting a “blend wall.”

Most gasoline sold in the U.S. is up to 10% ethanol. Ethanol production has risen while gasoline demand has declined far more than Congress expected in 2007, when it passed the current standard, the EPA said.

“As a result, we are now at the ‘E10 blend wall’, the point at which the E10 fuel pool is saturated with ethanol,” the EPA said. “If gasoline demand continues to decline, as currently forecast, continuing growth in the use of ethanol will require greater use of higher ethanol blends such as E15 and E85.”

Organizations such as the American Petroleum Institute and travel and leisure group AAA had warned gasoline with more than 10% ethanol would be harmful to some cars and motors of small appliances and other vehicles. It would also void vehicle warranties in some cases.

In a statement Friday, the Renewable Fuels Association said it was disappointed at the proposal, which showed the government “wavering” on the renewable fuel standard for the first time, but it was “confident that the final number will be the right one for the industry in 2014.”

AAA said the proposal would prevent a “surge in gas prices or the premature expansion of E15 gasoline sales.”

The EPA has approved the use of E15 gasoline for use in newer car and truck models in some areas.

The API lauded the EPA as taking “a step in the right direction,” but “more must be done to ensure Americans have the choice of ethanol-free gasoline for boats and small engines, and to bring their mandates closer to reality on cellulosic biofuels, which do not exist in commercial quantities.”

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EPA Shrinks Ethanol Mandate for First Time

**Wall Street Journal**

**November 15, 2013**

WASHINGTON—The Environmental Protection Agency on Friday proposed for the first time to ease an annual requirement for ethanol in gasoline, acknowledging that mandated levels specified in a 2007 law are difficult, if not impossible, to meet.

The EPA is asking refiners in 2014 to blend 15.2 billion gallons of renewable fuel—most of it ethanol—into U.S. gasoline supplies. That is about 16% less than what Congress specified in a 2007 renewable fuels law. The law gives EPA the ability to lower the requirement.



The move represents one of the biggest setbacks to date for ethanol, long seen as a promising way for the U.S. to reduce dependence on imported oil. Most U.S. ethanol comes from corn.

The recent surge in domestic oil and gas production, coupled with a decline in the demand for transportation fuel, has lessened the appeal of ethanol. At the same time, food producers said the ethanol mandate makes animal feed more expensive by raising corn demand.

The EPA's proposal, which will be open to 60 days of public comment before being made final in the spring of next year, trims volume requirements for all kinds of biofuels. The EPA proposed that between two billion and 2.5 billion gallons of advanced biofuels be blended into the nation's fuel supply. That's significantly less than the 3.75 billion gallons mandated by the 2007 law for advanced biofuels, a category that includes fuels made from things other than corn.

Those volumes would leave between 12.7 billion and 13.2 billion gallons of corn ethanol in the nation's fuel mix. The EPA's proposal would cut ethanol volumes not just lower than what was expected for 2014, but lower than what was mandated in the last two years.

An administration official said the EPA remained committed to promoting biofuels and called the new levels "a sustainable path forward that allows for steady growth."

The EPA says it is trying to fix a problem known as the "blend wall," which occurs when the annual requirement mandated by Congress exceeds the amount of ethanol that can be mixed into conventional blends of gasoline.

Oil companies and refiners have been warning of the blend wall for several years. If the EPA had stuck to Congress's original target, refiners said they would have hit the blend wall in 2014 for the first time.

Prominent critics of the biofuels program cheered the EPA proposal. Jack Gerard, chief executive of the American Petroleum Institute, a trade group, called the reduced levels "a step in the right direction" and an "acknowledgement by EPA" that the blend wall is a "dangerous reality." Mr. Gerard said that Congress should ultimately strike down the "outdated and unworkable" biofuels mandates.

Ethanol makers and politicians in corn-producing states such as Iowa lobbied hard against easing the ethanol requirement. They said the law was meant to provide an incentive for the use of renewable fuels, and they criticized the oil industry for its reluctance to promote gasoline blends with more ethanol. Oil companies and refiners say that gasoline blended with 15% ethanol, known as E15, could damage cars and that consumers don't want it.

The EPA approved E15 in 2010, but only a few dozen retailers offer it. Standard gasoline generally contains up to 10% ethanol, and also is known as E10.

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EPA proposes first-ever rollback of renewable fuel targets

**E&E**

**November 15, 2013**

U.S. EPA today proposed scaling back renewable fuel targets for the first time since Congress passed the national biofuel mandate in 2007.

The agency proposal would require that refiners blend 15.21 billion gallons of renewable fuels into petroleum-based gasoline and diesel next year. Of that, 13.01 billion gallons is to come from conventional ethanol and 2.2 billion gallons from advanced biofuels that do not use corn starch as an input.

As part of the advanced target, EPA is proposing that at least 1.28 billion gallons be biodiesel -- made from soybean oil, animal fats and used cooking grease. Seventeen million gallons must be cellulosic biofuel made from other plant-based materials such as crop residue and municipal solid waste.

EPA is also seeking comment on ranges of targets. For overall renewable fuels, the agency has proposed a range from 15 billion to 15.52 billion gallons. For advanced biofuels, the range stretches between 2 billion and 2.51 billion gallons, and cellulosic biofuel is between 8 million and 30 million gallons.

"Biofuels are a key part of the Obama Administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," EPA Administrator Gina McCarthy said in a statement. "We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use. We look forward to working with all stakeholders to develop a final rule that maintains the strength and promise of the RFS program."

But the rule drew immediate criticism from both biofuel producers and members of a strange-bedfellow coalition of groups seeking to either reform or repeal the renewable fuel standard.

"The proposed rule released today turns the logic of the RFS on its head and could significantly chill investments in advanced biofuels projects," said Brent Erickson, executive vice president of the Biotechnology Industry Organization's industrial and environmental section, a group that advocates on behalf of advanced biofuel producers.

EPA today also said it is taking comment on a petition from oil industry groups to waive the volume requirements down even further.

The 2007 Energy Independence and Security Act, which created the renewable fuel standard, calls for 18.15 billion gallons of renewable fuels to be blended into petroleum-based gasoline and diesel next year. Of that, 14.4 billion gallons was set to be conventional ethanol and 3.75 billion gallons advanced biofuels.

This year's targets are 13.8 billion gallons for corn ethanol and 2.75 billion gallons for advanced biofuels, for an overall renewable fuels target of 16.55 billion gallons.

With the proposal, EPA officially acknowledged the existence of the "blend wall" -- the point at which petroleum manufacturers say they're required to blend more ethanol into fuel than is

feasible. The agency said it would use its authority under the statute's waiver provisions to roll back the targets.

Under the renewable fuel standard, the agency is given leeway to reduce the cellulosic biofuel target based on assumptions of actual market supply. EPA has used its authority to lower the target each year since the RFS was put in place because of the slower-than-expected ramp-up of the cellulosic industry.

EPA has never, however, used its authority to lower the overall advanced biofuel standard and has instead relied on excess biodiesel production and imported sugar cane ethanol from Brazil to fill the gap left by the lower cellulosic production.

Nor has the agency lowered its overall renewable fuel target, which sets the conventional ethanol mandate for the year. In its rule today, the agency cites "inadequate domestic supply," one of two criteria set out by the 2007 statute, as justification for lowering the target.

"This proposal seeks to put the RFS program on a steady path forward -- ensuring continued growth of renewable fuels while recognizing the practical limits on ethanol blending," EPA said.

The targets proposed today are similar to those EPA included in an initial draft proposal that was circulated last month among stakeholders and was first reported by Greenwire.

Biofuels producers and trade organizations launched a lobbying blitz in response to the draft, warning that the potential rollback would stymie investment in next-generation fuels and could lead to the shuttering of dozens of conventional ethanol plants. According to official meeting records, biofuel and ethanol producers met with EPA and the Office of Management and Budget eight times since the draft was leaked; oil industry groups and companies met with the agencies only three times.

### **EPA disappoints RFS opponents and supporters**

The new proposal is unlikely to make either supporters of the RFS or its opponents happy.

Biofuel producers say that the renewable fuel standard was meant to drive investment in new fuels and that EPA's action amounts to bowing to oil companies' demands.

The corn ethanol industry, which says there will be enough production and carryover credits to meet the full 14.4-billion-gallon target next year, has questioned the agency's legal authority to lower the target based on the domestic supply criterion.

"I think there's a number of us that can demonstrate those ranges were way too low and don't line up to the intent of the RFS," said Tom Buis, CEO of the ethanol trade group Growth Energy.

Biodiesel producers have also criticized the agency for proposing a biodiesel target at the same

level as this year's target rather than one that reflects the growth in the industry; the industry is expected to reach a record 1.7 billion gallons of production this year. Producers will likely be forced to scale back production without a robust number and with the high chance of the biodiesel production tax credit expiring at the end of the year, the National Biodiesel Board says.

"The growth in domestic biodiesel production dovetails exactly with President Obama's statement in July of this year that 'biofuels are already reducing our dependence on oil, cutting pollution and creating jobs around the country,'" said Anne Steckel, NBB's vice president of federal affairs. "This is why EPA's action today is so surprising and disappointing."

While oil industry groups have pushed for a reduction in the volume targets, they, too, say they are disappointed with today's proposal. They are pushing the agency to lower the ethanol portion to no more than 9.7 percent of the nation's petroleum-based fuel supply, or 12.9 billion gallons.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and must be addressed to avoid serious impact on America's fuel supply and harm to American consumers," said Jack Gerard, CEO of the American Petroleum Institute. "While the agency took a step in the right direction, more must be done."

API and American Fuel & Petrochemical Manufacturers have already threatened to sue EPA if it does not finalize the rule by the statutory deadline of Nov. 30.

And livestock producers, which say the increased ethanol production driven by the standard has raised their operating costs, also expressed disappointment and vowed to continue seeking repeal of the standard in Congress.

The proposal is a "good and welcome first step," said Mike Brown, president of the National Chicken Council, "but ultimately Congress must still act. Congressional action to repeal the RFS remains the most viable pathway to allowing all users of corn to have equal market access."

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Prairies Vanish in the U.S. Push for Green Energy

**Sci-Tech Today**

**November 15, 2013**

Robert Malsam nearly went broke in the 1980s when corn was cheap. So now that prices are high and he can finally make a profit, he's not about to apologize for ripping up prairieland to plant corn.

Across the Dakotas and Nebraska, more than 1 million acres of the Great Plains are giving way to cornfields as farmers transform the wild expanse that once served as the backdrop for

American pioneers.

This expansion of the Corn Belt is fueled in part by America's green energy policy, which requires oil companies to blend billions of gallons of corn ethanol into their gasoline. In 2010, fuel became the No. 1 use for corn in America, a title it held in 2011 and 2012 and narrowly lost this year. That helps keep prices high.

"It's not hard to do the math there as to what's profitable to have," Malsam said. "I think an ethanol plant is a farmer's friend."

What the green-energy program has made profitable, however, is far from green. A policy intended to reduce global warming is encouraging a farming practice that actually could worsen it.

That's because plowing into untouched grassland releases carbon dioxide that has been naturally locked in the soil. It also increases erosion and requires farmers to use fertilizers and other industrial chemicals. In turn, that destroys native plants and wipes out wildlife habitats.

It appeared so damaging that scientists warned that America's corn-for-ethanol policy would fail as an anti-global warming strategy if too many farmers plowed over virgin land.

The Obama administration argued that would not happen. But the administration didn't set up a way to monitor whether it actually happened.

It did.

More than 1.2 million acres of grassland have been lost since the federal government required that gasoline be blended with increasing amounts of ethanol, an Associated Press analysis of satellite data found. Plots that were wild grass or pastureland seven years ago are now corn and soybean fields.

That's in addition to the 5 million acres of farmland that had been aside for conservation -- more than Yellowstone, Everglades and Yosemite National Parks combined -- that have vanished since Obama took office.

In South Dakota, more than 370,000 acres of grassland have been uprooted and farmed from

since 2006. In Edmunds County, a rural community about two hours north of the capital, Pierre, at least 42,000 acres of grassland have become cropland -- one of the largest turnovers in the region.

Malsam runs a 13-square-mile family farm there. He grows corn, soybeans and wheat, then rents out his grassland for grazing. Each year, the family converts another 160 acres from grass to cropland.

Chemicals kill the grass. Machines remove the rocks. Then tractors plow it three times to break up the sod and prepare it for planting.

Scattered among fields of 7-foot tall corn and thigh-high soybeans, some stretches of grassland still exist. Cattle munch on some grass. And "prairie potholes" -- natural ponds ranging from small pools to larger lakes -- support a smattering of ducks, geese, pelicans and herons.

Yet within a mile of Malsam's farm, federal satellite data show, more than 300 acres of grassland have been converted to soybeans and corn since 2006.

Nebraska has lost at least 830,000 acres of grassland, a total larger than New York City, Los Angeles and Dallas combined.

"It's great to see farmers making money. It hasn't always been that way," said Craig Cox of the Environmental Working Group. He advocates for clean energy but opposes the ethanol mandate. "If we're going to push the land this hard, we really need to intensify conservation in lockstep with production, and that's just not happening," he said.

Jeff Lutt, CEO of Poet, which operates ethanol refineries across the country, including in South Dakota, said it's up to farmers how to use their land.

"The last I checked, it is still an open market. And farmers that own land are free to farm their land to the extent they think they can make money on it or whatever purpose they need," he said.

Yet Chris Wright, a professor at South Dakota State University who has studied land conversion, said: "The conversation about land preservation should start now before it becomes a serious problem." Wright reviewed the AP's methodology for determining land conversion.

The AP's analysis used government satellite data to count how much grassland existed in 2006 in each county, then compare each plot of land to corresponding satellite data from 2012.

The data from the U.S. Geological Survey and the Department of Agriculture identify corn and soybean fields. That allowed the AP to see which plots of grassland became cropland.

To reach its conservative estimate of 1.2 million acres lost, the AP excluded grassland that had been set aside under the government's Conservation Reserve Program, in which old farmland is allowed to return to a near-natural state. The AP used half-acre sections of earth and excluded tiny tracts that became corn, which experts said were most likely outliers.

Corn prices more than doubled in the years after Congress passed the ethanol mandate in 2007. Now, Malsam said, farmers can make about \$500 an acre planting corn.

His farm has just become profitable in the past five years, allowing him and his wife, Theresa, to build a new house on the farmstead.

Four miles south, signs at each end of the town of Roscoe announce a population of only 324. But the town, which relies in part on incomes like Malsam's, supports a school, a restaurant, a bank, a grocery store and a large farm machinery store.

The manager of the equipment dealership, Kaleb Rodgers, said the booming farm economy has helped the town and the dealership prosper. The business with 28 employees last year sold a dozen combines at about \$300,000 apiece, plus more than 60 tractors worth between \$100,000 and \$300,000, he said.

"If we didn't have any farmers we wouldn't have a community here. We wouldn't have a business. I wouldn't be sitting here. I wouldn't be able to feed my family," Rodgers said. "I think ethanol is a very good thing."

Jim Faulstich, president of the South Dakota Grasslands Coalition, said the nation's ethanol and crop insurance policies have encouraged the transformation of the land.

Faulstich, who farms and ranches in central South Dakota near Highmore, said much of the land being converted is not suited to crop production, and South Dakota's strong winds and rains will

erode the topsoil.

"I guess a good motto would be to farm the best and leave the rest," he said.

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Fuels America members talk about EPA proposal, vow to fight back

**Biomass Magazine**

**November 15, 2013**

Fuels America held a media call on Nov. 15, reacting to a U.S. EPA proposal that would lower the required volumes of both conventional ethanol and advanced biofuels in 2014. Participating were representatives from the Renewable Fuels Association, the Biotechnology Industry Organization, the National Farmers Union, Poet LLC and Growth Energy.

The EPA's is seeking comment on its proposal for the 2014 renewable volume obligations (RVO) for the renewable fuel standard (RFS). First, the proposal needs to be published in the Federal Register, which kicks off a 60-day comment period.

Bob Dinneen, RFA's president, spoke first, pointing to the expected record corn crop of 14 billion bushels and saying it is the wrong time to reduce the renewable fuels required volumes. "The minute you introduce blending capacity or blend wall considerations, into a decision as to whether or not to waive the program is the minute you take the nation's renewable fuel policy away from the statute and you put it in the hands of the oil companies, who do not want to invest in the infrastructure to allow more than 10 percent blends to be used," he said. "It makes no sense."

The RFA also pointed out in a press release that the EPA does not have the statutory authority to lower the RVO by more than the total reduction in advanced and cellulosic gallons and said it cannot stand. The "blend wall" doesn't qualify as grounds for a general waiver of RFS volumes. Severe economic harm or inadequate domestic supply of renewable fuels must be proven for a general waiver and those conditions do not apply.

Next up was Brent Erickson, executive vice president of BIO's industrial and environmental section. BIO is baffled by what it considers a radical change in posture from the EPA, he said, pointing out that the RFS was formulated by Congress to push past the blend wall. "We think this rule will create an intolerable amount of uncertainty and undercut investments for the advanced biofuels industry," he said, adding that investors were already nervous before this development.

He sees three possible fallouts, should this proposal be finalized. First, existing investments in advanced biofuels would become stranded, putting existing jobs at risk. Development of advanced biofuel feedstocks would slow or stop completely. Finally, new technology, which is just now reaching commercial readiness, could be derailed. He also pointed out that many companies have already invested more than \$5 billion into advanced biofuels and created more than 7,600 permanent jobs.



Roger Johnson, president of the National Farmers Union, said if the proposal becomes final it would have direct negative impacts on farmers and that it sends a message from the EPA that rural development will stop and actually go backwards. Corn prices are down, leaving a breakeven point for farmers that is at about \$4 or \$4.50 a bushel. With one more good corn crop, farmers will be struggling to make ends meet. On top of that, this proposal sucks half a billion bushels of demand from the corn market. "This is a proposal that we are deeply, deeply disappointed about," he said.

Jeff Lutt, CEO of Poet LLC, said the company is very troubled by the proposal. "We are shocked by the numbers that are in the proposal that says, not only are we going to slow down the vision and the plan of continuing to create an alter to gasoline and cop for American consumers, but we are going to maybe retreat from and turn back the numbers," he said. "It is a grave concern to us, a company who has invested millions of dollars, not only in building corn-based ethanol business, but is at the heels of commercializing cellulosic ethanol as well. It seems like it would be handing a complete win to the oil industry."

He also pointed out that many people incorrectly think it's an either or situation with corn-based ethanol and cellulosic ethanol. "The fact is, all of the technology that we have developed, all the infrastructure, the investment that we have made, has been made on the foundation of our corn ethanol business," he said.

Tom Buis, CEO of Growth Energy, also said he was disappointed in the proposal. He went on to stress that it hasn't been finalized and that Growth Energy would be submitting comments in an effort to convince the EPA to make changes before the final rule comes out, something other speakers said as well "I would remind everyone it is a proposal, and I know all of us on the call today and everyone in the sector will be working hard to show that ... their rationale was incorrect," he said. "We should be moving forward, not backwards."

He also pointed out only five years have passed for a 15-year policy that is working to save Americans money at the gas pump. "Now is not the time to turn back on the progress we have made and ask Americans to pad big oil's already record profits," he said in a press release. "In its current form, this rule would freeze innovation or investment in next generation biofuels; reduce production of conventional biofuels; harm our environment and jeopardize savings to consumers."

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Oil companies win RFS round one

**Agriculture.com**

**November 15, 2013**

The EPA announced its proposal for the 2014 Renewable Fuel Standard Friday and, as expected, it would leave less room for corn-based ethanol in gas tanks next year.

The proposed rule, which will be followed by 60 days of public comments, mandates 15.21 billion gallons of renewable fuel blending next year, but when you subtract the mandate for advanced biofuels (which includes cellulosic and biodiesel) the mandate for conventional

ethanol made mostly from corn is about 13 billion gallons.

That's a dramatic reduction from this year's 13.8 billion gallon corn ethanol RFS.

"This would take 500 million bushels of demand away from America's farmers," said Bob Dinneen, president of the Renewable Fuels Association.

In its press release announcing the proposal, the agency said it "seeks to put the Renewable Fuel Standard (RFS) program on a steady path forward -- ensuring the continue long-term growth of the renewable fuel industry --while seeking input on different approaches to address the 'E10 blend wall.' "

But the industry isn't buying it.

Brent Erickson, executive vice president of BIO, which represents the advance biofuels industry, said the rule, if it stands, "would undercut investment for the advanced biofuels industry," just as companies like Abengoa, DuPont and POET are building plants that will begin commercializing cellulosic ethanol.

The EPA is proposing a waiver to the RFS, based in part on the blend wall.

But Dinneen said Friday that is has no legal authority to do so. In fact, when the 2007 Energy Independence and Security Act was passed, a House-Senate conference committee rejected lack of oil company infrastructure as justification for any waivers. EPA has to show economic harm, which Dinneen said it can't when ethanol is 50-60 cents a gallon cheaper than gasoline. Or, it has to show inadequate supplies.

"We produced more this year than they are requiring next year," he said.

National Farmers Union president Roger Johnson said that the energy law's intent was to increase the share of biofuels in the nation's liquid fuels by more than 10%, up to about 25-30% by 2022.

The EPA proposal, Johnson said, "lets the oil companies know that if they simply quit investing in infrastructure to allow this into the marketplace, they win."

Reaction in the agricultural community was swift and negative.

American Farm Bureau president Bob Stallman said:

"The intent of the Renewable Fuels Standard revised in 2007 (RFS2) was to get more renewable fuels into our nation's pipeline and move beyond the E10 fuel blend. Today's announcement from EPA moves us in the opposite direction. This decision has the potential to pull the plug on new technologies and investments that are currently in place and needed to produce advanced biofuels," he said.

"The ethanol industry, from farmers to investors and everyone in between, needs stability and certainty."

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EPA proposes to reduce 2014 renewable fuels target

**Cattle Network**

**November 15, 2013**

A proposal by the Environmental Protection Agency to reduce the 2014 renewable fuels standard drew mixed reaction Friday afternoon from industry stakeholders.

According to EPA, the proposal will put the Renewable Fuels Standard program on a “steady path forward.”

The proposal, which will be open for a 60-day comment period once it is published in the *Federal Register*, would lower the 2014 renewable biofuel mandate from 18.15 billion gallons to a range of 15 billion to 15.52 billion gallons added to the U.S. fuel supply. EPA’s recommended target is 15.21 billion gallons within the proposed range.

EPA also proposed changes for cellulosic biofuels, with a range between 8 million and 30 million and a recommended target of 17 million gallons, and advanced biofuels, with a range of 2.0 billion to 2.51 billion gallons and a recommended target of 2.20 billion gallons.

On a stakeholder call hosted by the American Petroleum Institute that included representatives from the livestock industry, the American Meat Institute’s Mark Dopp welcomed the proposal but urged congressional action. AMI supports legislation pending in the U.S. House of Representatives to eliminate the corn-based ethanol mandate, reduce cellulosic and advanced biofuels requirements and put a 10 percent cap on the amount of ethanol that can be blended into gasoline.

“EPA’s decision to reduce the ethanol mandate is long overdue,” said Dopp. “While this is a positive step, the fact remains the RFS is a flawed policy that requires Congressional action. Even with a record corn crop expected this year, the damaging ripple effect of this defective policy has moved through the meat and poultry complex for the past several years. The time for Congressional action is now.”

EPA said while renewable fuel production has ramped up in recent years, gasoline consumption in the United States has dropped. As a result, EPA’s release said we are now at the “E10 blend wall,” the point at which the E10 fuel pool is saturated with ethanol.

The National Farmers Union’s Roger Johnson disagrees and says the blend wall argument is a fictitious product from the oil industry.

“We are deeply disappointed in EPA’s apparent willingness to reduce total renewable fuel requirements based on the oil industry’s fictitious ‘blend wall’ argument. Big oil has determined that biofuels are taking their market share, so they have prevented increased amounts of biofuel to be sold at gas stations,” Johnson said.

Johnson said the lower mandate will also further reduce corn prices, eliminate jobs and hurt rural economies. The American Farm Bureau Federation also expressed disappointment with the proposed rule.

EPA hopes to finalize the rule by spring 2014.

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EPA Proposes Reducing Biofuel Mandate

**ABC News**

**November 15, 2013**

The Obama administration on Friday proposed to reduce the amount of ethanol in the nation's fuel supply for the first time, acknowledging that the biofuel law championed by both parties in 2007 is not working as well as expected.

While the proposal highlights the government's struggle to ramp up production of homegrown biofuels that are cleaner-burning than gasoline, it is unlikely to mean much for consumers at the pump.

The change would reduce by almost 3 billion gallons the amounts of ethanol and other biofuels blended into gasoline in 2014 than the law requires.

The 2007 law tried to address global warming, reduce dependence on foreign oil and prop up the rural economy by requiring oil companies to blend billions of gallons of biofuels into their gasoline each year. But politicians who wrote the law didn't anticipate fuel economy to improve as much as it has in recent years, which reduced demand for gasoline.

Meanwhile, next-generation biofuels, made from agricultural waste such as wood chips and corncocks, have not taken off as quickly as Congress required and the administration expected.

President Barack Obama has championed biofuels since his days representing Illinois in the Senate, and his administration has resisted previous calls to lower biofuel volumes or repeal the law.

EPA officials said they were still committed to alternative fuels as part of a comprehensive energy strategy. If the EPA stuck to the volumes mandated by law, the amount of biofuel required would generate more ethanol than many engines can safely handle, officials said.

"We have made great progress in recent years, and EPA continues to support the RFS goal of increasing biofuel production and use," EPA Administrator Gina McCarthy, referring to the 2007 law called the Renewable Fuel Standard.

Biofuel supporters, however, said the proposal marked a departure for the Obama administration.

"This is the first time that the Obama administration has shown any sign of wavering," said Brooke Coleman, executive director of the Advanced Ethanol Council.

Bob Dinneen, the head of the Renewable Fuels Association, the Washington group that lobbies

on behalf of the ethanol industry, said the announcement is ill-timed as the country is currently harvesting a record corn crop. He said the industry may sue if the proposal is not altered.

"This is exactly the wrong time to be reducing the required volumes of renewable fuels," Dinneen said.

The ethanol mandate created an unusual alliance between oil companies, which have seen ethanol cut into their share of the gasoline market, and environmental groups that oppose planting more corn for fuel. A recent AP investigation found that corn-based ethanol's effect on the environment is far worse than the government predicted or admits.

The oil industry lobbied hard for a reduction and is pleading with Congress to completely repeal the law.

Jack Gerard, president and CEO of the American Petroleum Institute, said the EPA's move is a step in the right direction, but "ultimately, Congress must protect consumers by repealing this outdated and unworkable program once and for all."

House Energy and Commerce Committee Chairman Fred Upton, R-Mich., said his panel is working on "comprehensive reforms" to the law.

"The status quo is no longer workable," Upton said.

Also in the proposal, the requirement for the amount of next-generation biofuels from nonfood plant sources, called cellulosic fuels, has been reduced for the fifth time in five years. The original law required 1.75 billion gallons of this fuel, which offers huge reductions in greenhouse gases compared with oil. For 2014, refiners would be required to blend 17 million gallons.

That's because companies have not yet been able to generate these fuels, which are far more complicated to produce than conventional biofuels, at high volumes. The target for next year does represent an increase from last year's 6 million gallons, though, and cellulosic fuels are the only category of biofuel to increase under the 2014 proposal. Two new cellulosic biofuel refineries are expected to begin producing fuel early next year.

Obama administration announces lower quotas for ethanol in gasoline

**The Guardian**

**November 15, 2013**

Barack Obama on Friday backed away from the notion of corn ethanol representing a cure for climate change, as he proposed to cut the amount of ethanol that is blended into the US gasoline supply.

The Environmental Protection Agency said it would for the first time seek to lower quotas for ethanol that have diverted close to 40% of America's corn crop from the global food chain and into the country's gas tanks. The EPA said it would seek to reduce the quotas under the Renewable Fuel Standard, from 16.55bn gallons this year to 15.21bn gallons in 2014. The proposal would peg the ethanol mandate to around 10% of the country's fuel supply.

The quota reduction will apply to all biofuels, including advanced biofuels which do not rely on food stocks but are made from plants like switch grass or corn stalks. It will also affect imports of Brazilian ethanol, which is made from sugarcane.

Officials said the president remains committed to ethanol. "Biofuels are a key part of the Obama administration's 'all of the above' energy strategy, helping to reduce our dependence on foreign oil, cut carbon pollution and create jobs," Gina McCarthy, the EPA administrator, said in a statement.

McCarthy said the EPA would continue to work to increase biofuel production and use.

But the move was widely seen as recognition that America's gasoline supply has hit a "blend wall", and cannot absorb ever-increasing amounts of ethanol.

America's gasoline consumption has fallen as more fuel-efficient and hybrid cars come on to the market. But the absolute numbers of the ethanol quotas kept rising. Motorists were also leery of higher blends of ethanol, such as the 15% and 85% blends on offer. There is also now less concern about developing alternatives to oil, given the boom in America's domestic oil production.

The hoped-for development of next generation biofuels, which do not use food stocks, has failed to materialise, and the oil industry has been fighting for some time to reduce the biofuels quota. Corn ethanol has also lost support from environmentalists, in light of a growing body of evidence that it offers little or no benefit in terms of reducing greenhouse gas emissions and that producing fuel from food was driving up global food prices.

On Friday, both sides of the debate offered support for the administration's decision.

The main oil industry lobby group has been pushing Obama to scrap all of the biofuels quotas, but it said this was a step in the right direction.

"For the first time EPA has acknowledged that the blend wall is a dangerous reality," Jack Gerard, the president of the American Petroleum Institute, told reporters. "While the agency took a step in the right direction, more must be done to ensure more Americans have a choice of fuels they want."

The Renewable Fuels Association, which represents ethanol producers, accused Obama of

surrendering to the oil industry. "EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said the RFA president Bob Dinneen.

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## Parties Line Up to Support, Criticize Proposed 2014 RVO

**Opis**

**November 15, 2013**

As expected, members of the petroleum and biofuels industries are lined up on opposite sides of EPA's proposed 2014 Renewable Fuel Standard (RFS) renewable volume obligations.

Under the proposal, EPA would require:

--15.21 billion gal of total renewable fuel, and a range of 15-15.52 billion gal (down from 18.15 billion as originally envisioned);

--13.01 billion gal of conventional biofuel (mostly comprised of corn-based ethanol and down from 14.4 billion gal as originally envisioned);

--2.20 billion gal of advanced biofuel, and a range of 2-2.51 billion gal, (down from 2.75 billion gal as originally envisioned);

--1.28 billion gal (without a range) of biomass-based diesel target for both

2014 and 2015 (above the statutory requirement of at least 1 billion gal, but below the industry's annualized production rate from the last few months of approximately 2 billion gal); and

--17 million gal of cellulosic biofuel, and a range of 8-30 million gal (well below the 1.75 billion gal as originally envisioned).

Even as the EPA was announcing its proposed RVO this afternoon, organizations were staking their positions for upcoming turf battles.

"Clearly we are disappointed in the initial proposal that was released today,"

said Tom Buis, CEO of Growth Energy, in a conference call arranged by several biofuels proponents. "This proposed rule goes directly against the best interests of our nation and American consumers. The RFS is working to reduce our dependence on foreign oil, create jobs, clean our air and save consumers at the pump."

"By re-writing the statute and re-defining the conditions upon which a waiver from the RFS can be granted, EPA is proposing to place the nation's renewable energy policy in the hands of the oil companies," said Bob Dinneen, president and CEO of the Renewable Fuels Association, during the same press conference.

"That would be the death of innovation and evolution in our motor fuel markets, thus increasing consumer costs at the pump and the environmental cost of energy production. This proposal cannot stand."

He referenced a study that found that the proposed reduction in ethanol blending would raise gasoline prices by 5cts/gal.

Meanwhile, from the oil industry's perspective, the proposed RVO is only part of the answer. "EPA's recognition of the blendwall and the potential adverse effects on consumers is a welcome step; however, greater reductions in the biofuel mandate are necessary if consumers are to avoid all the detrimental impacts of the statute. Additionally, EPA's actions can only be short-term in nature and point to the need for Congress to work quickly in addressing the severely flawed and totally outdated Renewable Fuel Standard," said American Fuel & Petrochemical Manufacturers (AFPM) President Charles T. Drevna in a prepared statement.

Here are select comments and early reactions about several hot-button issues raised by the proposal.

**Blendwall.** The point at which 10% ethanol blends are maxed, and subject of a waiver request from the oil industry in August 2013. At the time, AFPM and the American Petroleum Institute (API) petitioned for a 9.7% cap on ethanol in gasoline, and it is unresolved.

"For the first time, EPA has acknowledged that the blend wall is a dangerous reality and that breaching it would [create] serious impacts on America's fuel supply and would be harmful for American consumers," said API President and CEO Jack Gerard.

"The so-called blendwall is a crisis manufactured by the oil industry, which is interested in eliminating the competition so they can continue reaping even greater windfall profits," said U.S. Sen. Debbie Stabenow (D-Mich.), chairwoman of the U.S. Senate Committee on Agriculture, Nutrition and Forestry. "The proposed rule could cost thousands of good-paying clean energy jobs and mean less competition at the pump. I urge the administration to take a hard look at how this could seriously set back growth at a crucial time when tremendous progress is being made toward commercial-scale production of advanced biofuels."

**Cellulosic standard.** EPA proposed a cellulosic biofuels RVO of 17 million gal in 2014, down from a previously anticipated level of 23 million gal, which was already far below the cellulosic biofuels anticipated when the rule was written.

EPA is asking for comments on a range of 8 million to 30 million gal for 2014.

"EPA is in the right ballpark for cellulosic biofuels, and we are confident that the final number will be the right one for the industry in 2014," said Brooke Coleman, executive director of the Advanced Ethanol Council.



However, Brent Erickson, executive vice president of Biotechnology Industry Organization's (BIO) Industrial & Environmental Section, called the cellulosic numbers "flawed" and "intolerable," especially when commercial-scale plants are finally coming online.

BIO members will find that investors will react negatively to a paring back of targets. "The research and development catalyzed by [the RFS] program has given birth to biotech innovations for renewable chemicals and other bio-based products," he said. "The current proposal would have the effect of closing the market to renewable fuels and undermining the investment community's confidence in the program, starving advanced biofuel and biotech companies of the capital they need to successfully commercialize new and innovative technologies."

Jeff Lautt, CEO of ethanol producer POET, said that this company's cellulosic plant (corn stover feedstock) will come online in 2014 and will have a capacity of 20 million gal/year. It is one of at least three plants that will be operational next year, thus giving the industry capacity well above the 17 million gal that EPA envisions, he said. "The uncertainty created by the RFS2 creates concerns on the part of our investors and lenders ... making it nearly impossible [for the industry] to do a buildout of cellulosic capacity," he said.

EPA's waiver authority. In its proposal, EPA cites its ability to issue a waiver of higher RVO levels when the industry faces: 1. "Limitations in the volume of ethanol that can be consumed in gasoline given practical constraints on the supply of higher ethanol blends to the vehicles that can use them and other limits on ethanol blend levels in gasoline - a set of factors commonly referred to as the ethanol 'blend wall.'"; or 2. Limitations in the ability of the industry to produce sufficient volumes of qualifying renewable fuel.

The refining industry agreed with that logic. "The fact that EPA must issue a waiver - and will need to continue waiving the ethanol mandate under the RFS in future years - is strong evidence that the program is broken," said AFPM's Drevna. "While we still believe that even further reductions are necessary and warranted, EPA's proposal acknowledges the adverse consumer impacts associated with the RFS."

Biofuels supporters disagreed. "EPA cannot show economic harm ... when ethanol prices are 50 cents or more per gallon below gasoline prices ... and it can't show inadequate domestic supply when we are already producing more than the RVO," said RFA's Dinneen. "EPA is trying to shoehorn the [refining] industry's distribution of ethanol into the waiver. But that was specifically rejected by Congress when the law was written."

Lawsuits. EPA acknowledged that its reasons for the proposed waiver are controversial, and it issued a separate call for comments on the petitions for a waiver. "EPA expects that a determination on the substance of the petitions will be issued at the same time that EPA issues a final rule establishing the 2014 RFS," the agency wrote.

When asked if RFA would sue if the RVO is not changed after the comment period, Dinneen said, "We will pursue every option." He said that RFA will send comments during the comment period to argue that willingness of refiners to distribute fuels above E10 should not be a factor in EPA's waiver authority. If the blendwall is the reason for the waiver, "litigation would be an option, but we are a long way from there," he said.

Higher-ethanol blends as the solution to the blendwall problem. "We are deeply disappointed in EPA and will try to help them come to their senses before the final rule is published, by helping the administration better grasp the role E15 and E85 can play in meeting the 2014 RFS," said Brian Jennings, executive vice president the American Coalition for Ethanol.

"The EPA's proposal to decrease ethanol requirements will help drivers by preventing a surge in gas prices or the premature expansion of E15 gasoline sales," stated the American Automobile Association in a prepared statement.

"While we would like to increase the use of alternative fuels, it is a plain fact that the Renewable Fuels Standard's original targets are unreachable without putting motorists and their vehicles at risk."

Corn prices and food. "The EPA decision to reduce the corn ethanol mandate is long overdue," said Mark Dopp, senior vice president of regulatory affairs and general counsel, American Meat Institute, in a prepared statement. "Even with a record corn crop expected this year, the damaging ripple effect of this defective policy has been moving through the meat and poultry complex for the past several years. The time for Congressional action is now."

"Corn prices have dropped roughly in half [from their highs] this year, as we produced a record crop," said Roger Johnson, president, National Farmers Union.

But the proposed RVO would "suck out a half-billion bushels [of demand] out of the corn market," and would severely hurt farmers, he said.

**To:** Argyropoulos, Paul[Argyropoulos.Paul@epa.gov]  
**From:** Larry Schafer  
**Sent:** Thur 11/21/2013 7:09:44 PM  
**Subject:** NBB Letter on Biodiesel from Argentina  
Final - NBB Letter to EPA on Argentina Biodiesel (11-18).pdf

Paul,

Attached is a letter from NBB to the Administrator of EPA relating to decisions about biodiesel from Argentina qualifying for the RFS under Section 80.1454(h)

I wanted to give you a heads up. Our basic ask is don't do it now while there are three rules pending that will impact this issue ... and if you plan to move forward then do it under notice and comment first ...

We plan to send the letter tomorrow ...

If you would like to discuss, then please let me know.

Larry



|   |  |
|---|--|
| <b>National Biodiesel Board</b><br>605 Clark Ave.<br>PO Box 104898<br>Jefferson City, MO 65110-4898<br>(800) 841-5849 phone<br>(573) 635-7913 fax | <b>National Biodiesel Board</b><br>1331 Pennsylvania Ave., NW<br>Suite 505<br>Washington, DC 20004<br>(202) 737-8801 phone<br><a href="http://www.biodiesel.org">www.biodiesel.org</a> |
|---|--|

November 18, 2013

The Honorable Gina McCarthy  
Administrator  
U.S. Environmental Protection Agency  
1200 Pennsylvania Ave., N.W.  
Washington, D.C. 20460

Re: Application by CARBIO, et. al. on behalf of biodiesel companies from Argentina related to the  
"Alternative Renewable Biomass Tracking Requirement" (40 C.F.R. § 80.1454(h))

Dear Administrator McCarthy:

We hope you are well. Today, we bring to your attention an important matter that if not addressed may allow hundreds of millions of gallons of biodiesel that do not meet any of the renewable biomass requirements of the Renewable Fuels Program (RFS2) to be imported into the United States as early as January 1, 2014.

We understand a number of companies in Argentina, working through their trade association "CARBIO", are requesting the U.S. Environmental Protection Agency (EPA) to approve an "Alternative Renewable Biomass Tracking Requirement" under 40 C.F.R. § 80.1454(h), which, generally, would serve to replace the stringent feedstock recordkeeping requirements of the RFS2 regulations.

We do not believe that any "independent third party" has actually conducted a comprehensive program of annual compliance surveys on any biodiesel facilities or their feedstock suppliers in Argentina. Rather, we believe a plan has been submitted to EPA that outlines a survey program, but that the actual "comprehensive program of annual compliance surveys" has not yet begun. In context of the steps that EPA is taking to insure that RINs being generated actually meet the requirements of the regulations, at best, it would seem premature for EPA to approve a foreign survey plan that cannot meet the requirements of any of the recently proposed quality assurance plans. This is especially true where EPA has provided the public with little to no guidance on what a survey plan under Section 80.1454(h) would entail.

Furthermore, it would seem that any approval under Section 80.1454(h) of a plan by EPA would be premature given that the issue of what constitutes allowable RIN generation is being discussed in two pending rules that have not yet been finalized:

1. The RFS Renewable Identification Number (RIN) Quality Assurance Program; Proposed Rule, 78 Fed. Reg. 12,158 (Feb. 21, 2013), Docket ID No. EPA-HQ-OAR-2012-0621; and
2. Regulation of Fuels and Fuel Additives: RFS Pathways II and Technical Amendments to the RFS2 Standards; Notice of Proposed Rulemaking, 78 Fed. Reg. 36,042 (June 14, 2013), Docket ID No. EPA-HQ-OAR-2012-0401.

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The National Biodiesel Board has commented on both rules. We support additional assurances that foreign producers of renewable fuel are in compliance with the RFS2, and we support additional provisions to assist EPA in the enforcement of the RFS2 requirements, particularly increasing the bond requirements for foreign production of renewable fuels. We commented at length on how a “quality assurance plan” (Q-A-P) should be applied to foreign biofuel producers. Specifically, we are concerned about the jurisdiction of the EPA and the U.S. Department of Justice in reaching into other countries to enforce the RFS2 program. We asked the question: How does EPA best protect obligated parties and the RFS from fraud or invalid RINs that are illegally or invalidly generated from foreign producers? Of particular difficulty is ensuring that EPA’s restrictions on the types of renewable biomass that can be used are met. These restrictions require a rigorous tracking program. Again, we think this is an important issue for the EPA to get right, as there are currently hundreds of millions and potentially billions of RINs that will likely be generated under the program. An excerpt of our Q-A-P comments is attached.

In light of the current Renewable Volume Obligation discussion being undertaken as a proposed rule by the EPA, there will likely be huge losses in domestic production if the EPA moves to prematurely approve biodiesel from Argentina to qualify for the program based on a survey plan that has not been subject to public review and that does not have the same level of rigor or oversight as the programs in place for domestic producers. Even as we write, the EPA is in the process of proposing the 2014 Renewable Volume Obligations for Biomass-based Diesel. As you know, many believe the proposal will include a meager 1.28 billion gallons for 2014, and perhaps hold it steady in 2015 at the same volume. Due in part to a “Differential Export Tax”<sup>1</sup> in Argentina, which encourages biodiesel exports over soybean exports, the Argentinian Biodiesel industry has the ability to produce and import to the United States more than 900 million gallons of biodiesel annually.

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<sup>1</sup> **Understanding DETs (LMC March 2013 DET Analysis)**

*The Argentine Differential Export Tax on soybean and soybean related products are as follows:*

- Soybeans - 35%
- Soybean Oil – 32%
- Soybean Meal – 32%
- Biodiesel – 17.5%

*DETs are Differential Export Taxes. In Argentina, export taxes are levied on beans as well as soybean products; however, they create an incentive to process soybeans in the country for export. This is done by applying different tax rates on soybeans and the products from crushing which decline with the degree of processing, being higher on beans than on products. DETs the government to change the balance of exports between beans and products away from that balance that would exist in a free market, with a knock-on effect on soybean crushers elsewhere in the world.*

*Soybeans can either be used directly as beans, or can be crushed to produce soybean oil and meal. The **crush margin** is the difference between the cost of the beans and the revenue from the meal and oil. This is determined, in turn, by the relative price of the beans compared to the prices of the meal and oil. If the beans become cheaper in relation to products, crushing becomes more profitable and the crush margin increases.*

*This “differential” in the DETs arises because ... soybean exports are taxed at the highest rate in Argentina; this is currently set at 35%. A lower export tax rate of 32% is charged on oil and meal. These differences in the rates of taxation increase the profitability of crushing in Argentina, ... The export tax on biodiesel until very recently was set at a net rate of 17.5% (calculated after deducting a 2.5% tax refund from the nominal export tax of 20%). This provides an incentive to process soybean oil into biodiesel for export.*

According to the Energy Information Administration, already in 2013, we have seen imports from Argentina come to the United States, even though presumably these gallons do not qualify as RIN generating gallons for purposes of the RFS2. In 2013, without biodiesel from Argentina, the United States will import approximately 350 million gallons of biodiesel, of which approximately ½ will qualify for the Biomass-based Diesel program.

In 2014 it is anticipated, without including biodiesel from Argentina, that as much as 400 million gallons of RIN generating biodiesel and renewable diesel may be shipped to the United States.

Given this outlook for 2014, the total volume of imports including biodiesel from Argentina could be as much as 1.3 billion gallons. Potentially, this import volume could be more than the entire 2014 RVO for Biomass-based Diesel (1.28 billion gallons). Clearly, we do not believe this is the program envisioned by Congress or this Administration.

As you consider moving forward on an “Alternative Renewable Biomass Tracking Requirement” under 40 C.F.R. § 80.1454(h), we urge you to consider the greater context of this decision and the ever present impact it will likely have on domestic biodiesel production.

Due to the difficulty in overseeing foreign production and in taking enforcement actions against foreign producers highlighted in the proposed rules noted above, we also have significant concerns regarding the effectiveness of any survey plan that might have been proposed. According to a case study by the Association of American Geographers, Argentina ranks third in soybean production and soybean consumption due to its large cattle industry, and is a leading exporter of soybean oil.<sup>2</sup> Soybean production in Argentina has grown fast in the past few years, and soybean area continues to increase at a rapid pace.<sup>3</sup> The World Bank has noted, with respect to Argentina, that “[a]griculture (including land use change and forestry) is the largest contributor to GHG emissions in the country, while contributing less than 6% of GDP....”<sup>4</sup> The concerns of the National Biodiesel Board are even more pronounced due to the lack of public notice and opportunity to comment that EPA has provided on its “alternative renewable biomass tracking requirement,” as it relates to foreign production.

Thus, we urge you to provide the public with notice and an opportunity to comment on any proposed survey plan for foreign feedstocks and production before EPA takes any action. This is particularly true in light of recent events that may not have been contemplated under the RFS2 proposed rule, and the lack of any meaningful guidance provided to the public as to how EPA might implement a “consortium” approach overseas. We also believe that the implementation and enforcement of the program must be

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<sup>2</sup> Kingsland, M. and Hamilton, M. 2010. Population & Natural Resources case study: How can food production be produced sustainably to feed growing populations? In Solem, M., Klein, P., Muñiz-Solari, O., and Ray, W., eds., AAG Center for Global Geography Education. Available from <http://globalgeography.aag.org>.

<sup>3</sup> Doane Advisory Services, *A Look at Brazil, Argentina soybean sectors*, AG Professional, Mar. 14, 2013, *available at* <http://www.agprofessional.com/news/A-look-At-Brazil-Argentina-soybean-sectors-197594841.html>. “Over the last seven years [Brazil and Argentina] have added nearly 24 million acres, an amount equal to soybean acreage in Illinois, Iowa and Indiana combined.” *Id.*

<sup>4</sup> World Bank, Latin American and the Caribbean Region: Agriculture and Rural Development Team, *Argentina: Country Note on Climate Change Aspects in Agriculture*, at 2 (Dec. 2009), *available at* [http://siteresources.worldbank.org/INTLAC/Resources/Climate\\_ArgentinaWeb.pdf](http://siteresources.worldbank.org/INTLAC/Resources/Climate_ArgentinaWeb.pdf)

transparent to ensure compliance. The public, in addition to EPA, should be able to monitor compliance. Finally, we outline additional issues that EPA should consider prior to approving any such survey plan.

I. EPA Must Give the Public Notice and an Opportunity to Comment on Argentina's Proposal for Alternative Renewable Biomass Tracking.

In the proposed RFS2 rule, EPA outlined possible compliance alternatives for “*domestic* renewable fuel.” 74 Fed. Reg. 24,904, 24,938-24,940 (May 26, 2009) (emphasis added). One such alternative was to require renewable fuel producers to set up and administer a quality assurance program, creating the possibility of a partial affirmative defense. *Id.* at 24,940. The proposal provided no explanation as to how such a plan might apply to foreign feedstocks, only noting that EPA seeks comment on whether foreign producers should be subject to similar requirements as domestic producers with respect to the renewable biomass requirements.

EPA suggested, for domestic producers, creation of a “consortium” to establish a quality assurance program for the *renewable fuel production supply chain*. 74 Fed. Reg. at 24,940. This alternative was purportedly to be patterned after the survey program administered by the Reformulated Gasoline Survey Association.<sup>5</sup> *Id.* The proposal referenced a “nationwide verification program” carried out by an independent surveyor providing oversight of the feedstock designations and handling processes. *Id.* The survey plan would be required to include a methodology for conducting the surveys, and would be required to be approved by EPA. *Id.* The proposal indicated that this alternative approach was intended to merely provide a partial affirmative defense, and would include a means of addressing potential violations. *Id.* Although EPA sought comment on whether the alternatives proposed for domestic producers should also apply to foreign producers, EPA recognized in the proposed rule that “EISA creates unique challenges related to the implementation and enforcement of the definition of renewable biomass for foreign-produced renewable fuel.” *Id.* at 24,941.

The consortium approach finalized in the RFS2 Final Rule under 40 C.F.R. § 80.1454(h) differs in significant ways from the proposal, and, moreover, provides only very broad strokes as to what is to be included in any such plan.<sup>6</sup> Among the significant differences from the proposal is that the final regulation does not require participation by all feedstock producers and handlers in the plan, 74 Fed. Reg. at 24,940, requiring only that the renewable fuel producer “take all reasonable steps to ensure that each feedstock producer, aggregator, distributor or supplier cooperates with this program.” 40 C.F.R. § 80.1454(h)(5)(i). It also moved from a “nationwide verification program,” 74 Fed. Reg. at 24,940, to a

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<sup>5</sup> Under the reformulated gasoline program, a refiner or importer can establish compliance based on an average basis, allowing, for example, use of offsets to meet emissions requirements. Under these surveys, EPA is also able to monitor compliance with testing. EPA provided no indication that the alternative tracking program under the RFS2 program would allow for averaging, and testing cannot be conducted to ensure the feedstock meets the renewable biomass requirements at issue.

<sup>6</sup> The proposal did include a reference to a quality assurance program implemented by producers, outlining some specific elements of such program. 74 Fed. Reg. at 24,939. EPA did not finalize this proposed alternative, noting instead that it was finalizing the option that was “similar to the model of the successful Reformulated Gasoline Survey Association.” 75 Fed. Reg. 14,670, 14,700 (Mar. 26, 2010).

plan for an undefined “survey area” and “covered area” or an undefined set of producers. 40 C.F.R. § 80.1454(h). The broad category of issues that are to be included in a survey plan also significantly differs from the regulation providing for a survey program under the reformulated gasoline program, which provides more prescriptive requirements and criteria for approval of the survey plan by EPA. See 40 C.F.R. § 80.68; see also 40 C.F.R. § 80.1502 (establishing a survey program related to sales of E15). EPA provided no guidance in either the proposal or final rule as to the methodology for the surveys to be conducted. That EPA must approve the survey plan under the RFS2 program does not substitute for EPA’s obligation to provide adequate notice and opportunity to comment or to replace the need for public input.

The approval of a plan constitutes final agency action, which is subject to judicial review under Section 307(b) of the Clean Air Act. 42 U.S.C. § 7607(b). Given the lack of guidance provided by EPA in the proposed and final rules, EPA has not provided adequate public notice or a meaningful opportunity to comment as required under the Act. 42 U.S.C. § 7607(d). Public notice and comment gives the parties affected by a decision an opportunity to participate in the decision-making process. *Donner Hanna Coke Corp. v. Costle*, 464 F. Supp. 1295, 1305 (W.D.N.Y. 1979); see also *Env’tl. Integrity Project v. EPA*, 425 F.3d 992, 996 (D.C. Cir. 2005). The D.C. Circuit has stated that it will defer to an agency “so long as we are assured that its promulgation process as a whole and in each of its major aspects provides a degree of public awareness, understanding, and participation commensurate with the complexity and intrusiveness of the resulting regulations.” *Weyerhaeuser Co. v. Costle*, 590 F.2d 1011, 1028 (D.C. Cir. 1978). Indeed, it was impracticable for parties to provide comment on the implementation of a survey plan and its potential application to Argentina. While the public could comment as to why foreign producers should be subject to more stringent requirements,<sup>7</sup> only by placing the proposal in context does the public have adequate opportunity to address technical, factual and policy concerns with the so-called consortium approach for foreign feedstocks and production. Considering the rapid expansion of soybean area in Argentina and the very recent history of deforestation and land use changes for such production, providing for public comment ensures that EPA has “negate[d] the dangers of arbitrariness and irrationality in the formulation of rules ....” *Id.* (citation omitted). The concerns behind EPA’s recent proposals also indicate that EPA should reassess its consortium approach with respect to feedstock from foreign countries. As such, there are grounds to grant a petition for reconsideration of the consortium approach in general, 42 U.S.C. § 7607(d)(7), and EPA should provide notice and comment on any proposed approval of the request for a consortium approach in Argentina.

Moreover, the regulation itself provides that the survey program is intended to “achieve the level of quality assurance required under” the other renewable biomass provisions. 40 C.F.R. § 80.1454(h). EPA’s regulation for foreign countries seeking an aggregate compliance approach, which was promulgated after the RFS2 Final Rule, provides for a 60-day public comment period. 40 C.F.R. § 80.1457(c). EPA found that public notice and comment on these petitions “is necessary and important,” and that the data and calculations in the petitions should be made available to the public. 75 Fed. Reg. 76,790, 76,823-76,824 (Dec. 9, 2010). EPA provides no explanation why a “consortium”

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<sup>7</sup> See, e.g., NBB Comments at 27, EPA-HQ-OAR-2005-0161-2249.2 (Sept. 25, 2009) (distinguishing countries with declining agricultural land from those with increasing agricultural land).



survey plan for feedstock from foreign countries should escape similar public scrutiny, particularly where the aggregate compliance approach has only been applied in countries where agricultural land is stable or declining, which is simply not the case for Argentina. In addition, EPA is not familiar with agriculture production in foreign countries, and the public could provide invaluable assistance to EPA to ensure that the proposed plan will be effective. Thus, EPA should provide for public notice and comment on survey plans submitted to EPA under 40 C.F.R. § 80.1454(h) to ensure that the survey plan provides the same assurances as the other compliance approaches for the renewable biomass requirements.

Even if EPA somehow believes that the public had ample opportunity to comment, EPA has discretion to provide additional opportunities to ensure “public understanding and participation” in the process. *Weyerhaeuser Co.*, 590 F.2d at 1028 (citations omitted). Given the significant concerns that have arisen with respect to quality assurance programs conducted overseas and with respect to EPA’s ability to enforce the RFS2 requirements, EPA should provide the public with an opportunity to review and comment on any survey plan under consideration by EPA.

## II. EPA Should Ensure Sufficient Transparency of Any Approved Survey Plan Under Section 80.1454(h).

EPA should also consider making the plans and results of the audits available to the public on an ongoing basis. In its proposal for a quality assurance program for RIN generation, EPA recognized that the effectiveness of a quality assurance program is positively correlated to the amount of transparency with its implementation.<sup>8</sup> 78 Fed. Reg. at 12,189. EPA found that providing a level of transparency on the auditors and the quality assurance programs being implemented by them would “allow affected stakeholders to notify EPA of concerns or deficiencies in a third-party auditor’s registration or QAP.” *Id.* EPA also found that transparency “will work hand-in-hand with our QAP process to improve the integrity of information submitted for RFS compliance and deters fraudulent behavior.” *Id.* at 12,197. Under the proposal, this transparency is to be provided on an ongoing basis where EPA has proposed requiring annual renewal of an auditor’s registration. *Id.* at 12,189.

Transparency has also been identified as a key component in voluntary certification programs for sustainable production of crops, including soybean. For example, the Roundtable on Responsible Soy Standard for Responsible Soy Production (RTRS) identified a commitment to transparency as necessary for those participating in the certification program, including providing a publicly available summary of information about the performance of each certified organization with respect to each criterion.<sup>9</sup> EPA should provide the public with notice of its proposed determination on the request for a consortium approach for Argentina and give the public an opportunity to comment on the types of information EPA

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<sup>8</sup> Although NBB has concerns with the quality assurance program for RINs as proposed, it does believe that EPA should reconsider its “consortium” approach for renewable biomass from foreign countries based on its proposal and the comments submitted, particularly with respect to EPA’s concerns regarding foreign production of biofuels. NBB respectfully refers EPA to its comments on the February 2013 proposed rule.

<sup>9</sup> RTRS, *RTRS Standard for Responsible Soy Production Version 2.0\_Eng.*, at i, Sept. 16, 2013, available at <http://www.responsiblesoy.org/>.

should provide on an ongoing basis to ensure compliance with the approved plans and with the renewable biomass requirements.

III. EPA Must Ensure that Any Survey Plan Approved Under Section 80.1454(h) is Designed to Achieve at Least the Same Level of Quality Assurance Required Under the Individual Tracking Program and the Aggregate Compliance Approach.

EPA's regulations establish an "alternative renewable biomass tracking requirement" in lieu of the recordkeeping requirements for individual producers under 40 C.F.R. § 80.1454(c)(1) and (d). The regulation requires an independent third party to conduct a comprehensive program of annual compliance surveys to be carried out in accordance with a survey plan approved by EPA. 40 C.F.R. § 80.1454(h)(1). The plan, however, must be "designed to achieve at least the same level of quality assurance required in paragraphs (c)(1), (d) and (g)."<sup>10</sup> 40 C.F.R. § 80.1454(h)(2)(iv). EPA's regulations provide little detail as to what the survey plan must look like except that it must be (1) conducted at renewable fuel production and import facilities and their feedstock suppliers and (2) representative of all renewable fuel producers and importers in the survey area and representative of their feedstock suppliers. 40 C.F.R. § 80.1454(i)(ii), (iii). Although NBB believes that public notice and comment should be provided prior to any determination with respect to any proposed survey plan for Argentina under 40 C.F.R. § 80.1454(h), we provide the following guidance that we believe must be considered as EPA reviews any such plan.

A. Production and import facilities and feedstock suppliers.

Although EPA notes that the survey plan should include production and import facilities and feedstock suppliers, EPA does not adequately define these facilities, particularly with respect to import facilities and feedstock suppliers.

The regulations do not define "import facilities." EPA's regulations include various testing and recordkeeping requirements for imports. *See, e.g.*, 40 C.F.R. § 80.1466. Any survey plan should include a review of these records and inspection of the load port and port of entry.

The regulations also do not define "feedstock suppliers." The feedstock supplier may not be the actual grower of the commodity. EPA recognized as much noting that the producer/importer participating in the alternative tracking program "must take all reasonable steps to ensure that **each feedstock producer, aggregator, distributor, or supplier** cooperates." 40 C.F.R. § 80.1454(h)(5)(i) (emphasis added). Given certain commodities, the feedstock suppliers may be in a central location, such as a crushing facility, accepting feedstock grown on cropland from a very broad area. If the aggregate compliance approach is not available, then we assume that, unlike in the United States and Canada, the total amount of eligible agricultural land is not stable or declining in these areas. As noted above, reports indicate that soybean production in Argentina continues to grow at a rapid pace, hitting a record high for the 2012/2013 crop year. China and the European Union remain significant importers of

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<sup>10</sup> Paragraph (g) relates to the aggregate compliance approach established for planted crops and crop residues in the United States and other countries that petition and obtain such an approach under 40 C.F.R. § 80.1457.

soybean oil from Argentina and soy production is expanding into other parts of Argentina once considered too dry and uneconomical to produce soy.<sup>11</sup> “Argentina has lost 70 percent of its natural forest, much of it in the last 20 years, with increased soy production.”<sup>12</sup>

The proposal should identify the original source of the feedstock and establish requirements to show that, e.g., for crops and crop residue, the feedstock is from “existing agricultural land.” It should also provide a detailed explanation of how the feedstock gets from the original source to the biofuel production facility and then to the importer. In other words, the survey plan should ensure that the eligible feedstock is adequately segregated throughout the supply chain. It is only upon fully understanding the production process from the original source of the feedstock and down the chain that the survey plan can be reviewed and compared to the individual tracking requirements.

The annual surveys would confirm that the fuel is being produced from feedstock from the “existing agricultural lands” of the identified sources. If new growers are included in the survey area, it must show that the new growers similarly meet the requirements. This would provide safeguards to ensure that feedstock from outside these survey areas are not being used.

- B. Representative of all renewable fuel producers and importers in the survey area and representative of their feedstock suppliers.

Although the producers and importers eligible to rely on the survey plan appear limited under EPA’s regulations, EPA makes clear that the survey plan must be representative of all renewable fuel producers and importers in the survey area and their feedstock suppliers. While EPA requires that the survey plan identify the parties covered, the public has not had the opportunity to review and comment on what such a plan might look like for foreign production. The effectiveness of a plan may depend on several factors, including the policies of the country at issue regarding land use, the type of fuel being produced, the type of feedstock being utilized, and the size of the survey area. EPA must ensure the plan clearly defines the survey area and the parties subject to the survey requirements.

As an initial matter, EPA did not provide the public with any parameters as to the “survey area” that can be covered in any such plan. This is unlike the petition process provided for an aggregate compliance approach, which EPA determined must be on a nationwide basis. EPA found that “national level data most accurately reflects the broader effects of renewable fuel feedstock production on land use patterns.” 75 Fed. Reg. at 76,821. EPA’s proposed rule similarly indicated that an industry-wide “consortium” would be on a nationwide level. 74 Fed. Reg. at 24,940. If the survey area is less than the entire nation, it is likely that the country’s policies or land use trends are not similar to those in the United States or Canada. It also would be difficult to determine if there merely have been shifts in land use, resulting in substantial new clearings outside the survey area. In addition, EPA provides no guidance on how the survey plan is to confirm that the lands to be covered met the “existing agricultural land” definition on December 19, 2007. Any evidence indicating that the areas may have been cleared

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<sup>11</sup> Anne Herrberg, *Soy production endangers Argentina*, Deutsche Welle, Mar. 9, 2012, available at <http://www.dw.de/soy-production-endangers-argentina/a-16216304>.

<sup>12</sup> *Id.*

post-2007 should require a careful review of the proposed survey area. The initial identification of these lands must be based, at a minimum, on the types of documentation required for individual tracking. In short, the survey area should be carefully delineated, and the compliance carefully tracked.

EPA similarly did not explain how it would determine that the surveys are “representative” of producers/importers in the survey area and feedstock suppliers. Ensuring that the surveys to be conducted are sufficiently representative of the producers/importers and their suppliers is key to ensuring that this approach will provide at least the same assurances as individual tracking and the aggregate compliance approaches. With the aggregate compliance approach, for example, agricultural lands in the United States and Canada are tracked through extensive and highly reliable surveys conducted by government entities. These surveys have broad coverage, and, more importantly, are subject to strict quality control standards. EPA should ensure that the survey plan includes quality control standards. This is particularly true where, as noted above, it is unclear how far down the chain EPA is going to require the annual surveys to cover.

C. EPA must ensure that the annual compliance surveys are sufficiently rigorous.

EPA’s regulations provide merely broad strokes as to what is expected in a survey plan. This includes: (i) identification of the parties for whom the survey is to be conducted; (ii) identification of the independent surveyor; (iii) a methodology for determining when the audits will be conducted, the audit locations, and the number of audits; and (iv) **any other elements determined to be necessary** to achieve the level of quality assurance required under the individual tracking program and the aggregate compliance approach. 40 C.F.R. § 80.1454(h)(4).

To achieve the level of quality assurance required, the compliance surveys must include audits along the supply chain within the “survey area.” Because EPA cannot inspect or even easily visit other countries, these audits should include on-site visits. Section 80.1454(h) simply refers to audits, and requiring producers ensure cooperation by parties along the supply chain, referring simply to “copies of management plans, product transfer documents, and other records or information.” 40 C.F.R. § 80.1454(h)(5)(i). Simply reviewing documentation at a producer or importer’s facility does not adequately establish that the feedstock came from, e.g., eligible agricultural lands. In the proposed rule for a quality assurance program for RINs, for example, EPA proposed to require on-site visits as part of the audits. 78 Fed. Reg. at 12,192. EPA noted that the goal of these visits is to “verify that plant has the technology to produce, store, and blend biofuels at registered levels, is operating in accordance with the facility’s registration, and that the RINs generated since the last visit are valid.” *Id.* Similarly, site visits along the entire supply chain would better ensure that the feedstock is properly being segregated in a manner consistent with the survey plan and the requirements of the RFS2.

In addition, EPA makes no mention of the use of satellite imagery under the consortium approach. Under the individual tracking and aggregate compliance approaches, EPA is able to obtain mapping and nationwide data to track new clearings of land. Requiring the parties to submit satellite imagery of the surveyed lands and surrounding areas would provide additional assurances that new clearings are not occurring, allowing the surveyors to focus on ensuring the feedstock used came from lands within the

surveyed area. Such mapping, however, should not replace ongoing on-site visits of fields and review of new clearings and agricultural production for that year. But, it could provide the public with added assurances that the plan is effective and that the compliance surveys for Argentina are being conducted properly.

D. NBB is concerned that the surveyor is not truly independent.

Independence of the party conducting the audit (here, surveys) is key to ensuring the integrity of the program. EPA so recognized in its proposed rule for a quality assurance program for RINs, noting that the “first, and perhaps the most important, requirement for auditors is that they remain independent of renewable fuel producers.” 78 Fed. Reg. at 12,187. Ensuring against a conflict of interest is necessary to avoid incentives to promote invalid verification. *Id.* EPA’s regulation for a consortium approach refers to the requirements in 40 C.F.R. § 80.68(c)(13)(i), but that provision refers to independence from the “refiner or importer.” Without a better understanding of the survey plan, it is not clear who the “refiner or importer” is in this situation. There are various parties that can be involved in the production and import of the biofuel, including, e.g., the farmer, the feedstock supplier, the biofuel producer, the exporter, the importer, and the purchaser of the fuel. Moreover, EPA notes that an organization may arrange for the surveys, but does not explain what type of “organization” it is referencing. EPA should protect against any conflict of interest that might influence the “independence” of the surveyor. *For example, it is possible the surveyor or the company responsible for contracting with the surveyor could be the same company that markets or buys and sells the RINs once the biodiesel arrives in United States, which could create substantial financial motivation for all parties participating in that biofuel chain of custody.*

EPA’s regulations also do not provide specific requirements for the independent surveyor’s qualifications. Given the range of facilities being reviewed, the surveying entity must ensure that it has appropriately qualified employees who have experience and knowledge regarding the growing practices within the survey area. For example, there are several bodies that provide certification for sustainable production, such as the RTRS. These bodies provide various core competency requirements that could serve as a model for EPA to ensure the surveyors being hired meet the appropriate qualifications.

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Given the questions left unanswered by the RFS2 Final Rule with respect to its potential application to foreign production, EPA should provide the public with notice and an opportunity to comment on requests for approval of a “consortium” approach under 40 C.F.R. § 80.1454(h). At a minimum, it should provide the public with additional guidance as to the actual content of a survey plan, including an explanation of what constitutes a covered survey area, who are the participants in such a program, what facilities are being audited and what are the elements of such audit, how EPA is ensuring against conflicts of interest, and what methodology must be implemented in determining the number and location of the surveys/audits. Consistent with its proposed approach for quality assurance programs for RINs, EPA should also provide greater transparency on the survey plans and their implementation on an ongoing basis. Due to the concerns that have been raised recently regarding potential fraud and the difficulty in policing activities overseas, EPA must take every precaution to ensure that proposals for a

consortium approach provide the same level of assurance as the individual tracking and aggregate compliance approaches.

While we believe that public notice and comment is required on any proposed survey plan, we would like to meet with you to determine whether EPA is in fact considering a proposal similar to the one described herein – and provide you with additional information on the detrimental impacts it is likely to have on our industry.

To arrange a meeting, please call Kirsten Skala at (b) (6) or by email to (b) (6). We look forward to hearing from you on this important issue.

Sincerely,



Anne Steckel  
Vice President of Federal Affairs  
National Biodiesel Board

cc: The Honorable Tom Vilsack,  
The Honorable Dan Utech

## Attachment

NBB's comments are as follows:

IF IMPORTS OF RENEWABLE FUEL ARE ALLOWED TO CONTINUE TO QUALIFY FOR THE RFS PROGRAM, THEN IT IS IN THE PUBLIC INTEREST FOR EPA TO REQUIRE EVERY GALLON OF IMPORTED FUEL TO HAVE BEEN VALIDATED BY AN ENHANCED AND THE MOST ROBUST QUALITY ASSURANCE PLAN AND TO MEET SPECIFIC BOND REQUIREMENTS THAT AMOUNT TO NO LESS THAN 10% OF THE VALUE OF RENEWABLE FUELS IMPORTED EACH YEAR PER COMPANY.

EPA addresses the imports of biofuels and whether the RINs from foreign producers are valid as a bit of an afterthought. At the core of the RFS program is the requirement that feedstocks sufficiently qualify for the program. The EPA provides specific regulations for the treatment and qualifications of foreign producers at 40 C.F.R. §§ 80.1465, 80.1466 and 80.1467, but once paperwork documents are initially approved by the EPA, it does not require any validation or certification that the renewable biofuel product that arrives in the United States was produced in accordance with the RFS regulation. In order for the RFS to continue to function as intended, then each RIN used for compliance must be valid. Under the program today, it is impossible to determine whether any gallon of imported renewable fuel actually meet any requirements of the program.

NBB proposes that each gallon of imported renewable fuel must be validated through the highest level quality assurance plan, where each gallon produced and each RIN validated must first be approved through a real time monitoring system. In the cases where foreign product is being used to meet the strict requirements of the RFS program, then it is necessary for each foreign biofuel producing company to be continually monitored.

In its proposal EPA did not propose to limit whether purchasers of RINs from imported renewable fuel can also be eligible for the affirmative defense under the Q-A-P and importers can participate under the Q-A-P. EPA requested "comment on the likelihood of such producers participating in the quality assurance program, any difficulties to participating they might encounter, and any issues that could affect the integrity of the proposed program." 78 Fed. Reg. at 12,165. To the extent imports of renewable fuel continue to qualify for the program, NBB is concerned that EPA is unable to adequately oversee foreign entities.

With respect to the verification process, NBB is most concerned with the ability of EPA to accurately verify feedstock used outside of the United States, such as palm oil or palm oil derivatives and soybean oil from Argentina and Brazil used to produce biodiesel. Certain such feedstocks are yet to be approved, and foreign crops (except Canada) are subject to numerous recordkeeping and reporting requirements. High level Q-A-P's should be required to ensure that the renewable fuel generating RINs (i.e., fuel designated as "RFS-FRRF") has been properly segregated as required under 40 C.F.R. § 80.1466(j)(1). The Q-A-P should be required, and the third-party auditor also should ensure that the bond is updated annually and meets the requirements of 40 C.F.R. §§ 80.1466 and 80.1467. EPA should consider additional requirements for such fuels to ensure adequate oversight including increasing the bond required for each company to be no less than 10 percent of the total value of imports each year.

The elements of the proposed Q-A-Ps also do not appear to account for the additional recordkeeping requirements required for foreign renewable fuel producers and foreign RIN owners under 40 C.F.R. §§ 80.1466 and 80.1467. This additional documentation includes, for example, certification each time the renewable fuel is transferred for transport and load port and port of entry testing. This documentation should be required for all imported renewable fuel, regardless of who generates the RIN. EPA should ensure that any approved Q-A-P covers both the foreign renewable fuel producer and the domestic purchaser. The Q-A-P elements as proposed appear to focus on the production process. Thus, EPA should consider imposing additional requirements to review documentation from the foreign producer, the exporter in the foreign country (if different), and the importer itself once the fuel reaches the United States.

In addition, EPA should strengthen the ability to ensure invalid RINs associated with imported fuel are replaced. For example, EPA should consider having the domestic purchaser of the imported fuel be first in line to replace any invalid RIN, regardless of whether the RIN was subsequently transferred. EPA should also consider increasing the bond required for foreign renewable fuel producers and foreign RIN owners. At a minimum, EPA should provide additional information on how it assesses bonds and ensures that the bond is updated annually.

While NBB believes additional regulations may be required for imports of fuel from overseas to ensure compliance with the RFS2 requirements, it also recognizes the ongoing and significant trade that occurs directly across the border, largely as a result of NAFTA. In addition, EPA has approved an aggregate approach for crops from Canada, and EPA has provided for alternative methods for truck imports. See, e.g., 40 C.F.R. § 80.1466(l). NBB agrees that truck and rail imports crossing one land border do not present the same types of difficulties in tracking and enforcement as imports brought in through multiple countries or on vessels from overseas. Thus, the additional requirements proposed by NBB focus on imports from vessels and not on imports brought in on trucks or by rail across the border, and EPA should continue to consider additional flexibilities for imports by truck or rail, which we expect would largely be from Canada.



**To:** Larry Schafer (b) (6)  
**From:** Argyropoulos, Paul  
**Sent:** Thur 11/21/2013 7:11:36 PM  
**Subject:** Re: NBB Letter on Biodiesel from Argentina

Thanks for the heads up.

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**From:** Larry Schafer (b) (6)  
**Sent:** Thursday, November 21, 2013 2:09:44 PM  
**To:** Argyropoulos, Paul  
**Subject:** NBB Letter on Biodiesel from Argentina

Paul,

Attached is a letter from NBB to the Administrator of EPA relating to decisions about biodiesel from Argentina qualifying for the RFS under Section 80.1454(h)

I wanted to give you a heads up. Our basic ask is don't do it now while there are three rules pending that will impact this issue ... and if you plan to move forward then do it under notice and comment first ...

We plan to send the letter tomorrow ...

If you would like to discuss, then please let me know.

Larry